

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,
vs.

Case No. 10-CR-20123
Hon. Victoria Roberts

DAVID BRIAN STONE, DAVID BRIAN
STONE, JR., JOSHUA MATTHEW
STONE, TINA MAE STONE, MICHAEL
DAVID MEEKS, THOMAS WILLIAM
PIATEK, and KRISTOPHER T. SICKLES,

Defendants.

/
VOLUME 32
TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT COURT JUDGE
Detroit, Michigan
Monday, March 26, 2012

APPEARANCES:

For Government: Sheldon Light, Esq.
Christopher Graveline,
U.S. Attorney's Office

For Defendant D. Stone: William W. Swor, Esq.

For Defendant Stone Jr: Richard M. Helfrick, Esq.
Todd Shanker, Esq.

For Defendant J. Stone: James C. Thomas, Esq.

For Defendant T. Stone: Michael A. Rataj, Esq.

For Defendant Meeks: Mark Satawa, Esq.

For Defendant Sickles: Henry M. Scharg, Esq.

For Defendant Piatek: Arthur J. Weiss, Esq.

* * *

OFFICIAL COURT REPORTER:

Denise A. Mosby, CSR, RMR, CRR
(313) 961-6230 www.transcriptorders.com

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Detroit, Michigan

Monday, March 26, 2012

9:02 a.m.

— — —

LAW CLERK SCOTT: United States District Court
ern District of Michigan is now in session, the
Victoria A. Roberts, presiding.

You may be seated.

10 The Court calls Case No. 10-20123. United
11 States of America versus David Brian Stone, Jr. et al.

14 MR. LIGHT: Good morning, Your Honor. Sheldon
15 Light and Christopher Graveline for the United States.

16 MR. SWOR: Good morning, Your Honor. William
17 Swor, on behalf of David Brian Stone.

18 MR. SCHARG: Good morning, Your Honor. Henry
19 Scharq, on behalf of Kristopher Sickles.

20 MR. RATAJ: Good morning, Your Honor. Mike
21 Rataj, on behalf of Tina Stone.

22 MR. SATAWA: Good morning, Your Honor. May it
23 please this Honorable Court, Mark Satawa, on behalf of
24 Michael Meeks.

25 MR. THOMAS: Good morning, Your Honor. James

1 Thomas, on behalf of Joshua Stone.

2 MR. WEISS: Arthur Weiss, on behalf of Thomas
3 Piatek.

4 MR. HELFRICK: Richard Helfrick and Todd
5 Shanker, on behalf of David Brian Stone, Sr.

6 THE COURT: Good morning everyone.

7 The Court has before it a number of motions. At
8 the heart of all of the motions and at the heart of the
9 801(d)(2) determination the Court has to make is whether
10 sufficient proof has been presented that conspiracies exist.

11 So, I guess that's where the Court wants to
12 start this morning, and I'll start with argument from the
13 Government. I know the burdens are different for the
14 801(d)(2)(E) and with respect to whether sufficient evidence
15 has been presented for the Government to withstand the Rule 29
16 motions, but -- I understand that, but that's where I want to
17 start.

18 MR. LIGHT: Understood.

19 I won't repeat the argument or at least I won't
20 try to recapitulate the argument that's contained in the
21 response that the Government filed yesterday to the various
22 Motions for Judgment of Acquittal, but I will say to the Court
23 that that response contains a fairly concise summary of the
24 evidence as we see it that goes to support the existence of
25 the conspiracies charged, as well as the roles and

1 participation of each of the conspirators. And I'm referring
2 specifically to the portion of the response that we filed
3 starting on page nine called Summary of the Evidence.

4 Over the weekend I attempted to go through the
5 transcripts, my notes and the transcripts of the recordings,
6 and present a fairly concise view of what the evidence is in
7 this case as presented by the Government and as viewed in the
8 light most favorable to the Government, which I believe is the
9 standard to be applied on these determinations. And I'm not
10 going to repeat what's in the brief.

11 I will apologize for the typographical errors.
12 In reviewing it this morning, I found a number of various
13 typographical errors. I hope they are not too misleading to
14 the Court, but they are a product of my limited touch typing
15 skills over the weekend.

16 In looking at whether or not there's evidence of
17 the conspiracies charged, the place to start is to look at the
18 indictment and consider what the conspiracies are that have
19 been charged.

20 Count 1 charges a conspiracy to oppose by force
21 the authority of the Government of the United States. And it
22 goes on both in the general allegations of the indictment and
23 in the allegations of manner and means in Count 1 specifically
24 to lay out aspects of that conspiracy to oppose by force the
25 authority of the United States.

1 From reading some of the motions that have been
2 filed by the Defendants, it appears that the Defendants want
3 to limit the allegations and limit the scope of the conspiracy
4 to just one of the paragraphs of the charge that relate
5 specifically to that aspect of the conspiracy that involved a
6 plan to kill a member of law enforcement and then to ambush
7 the convoy of other law enforcement officers who would come
8 and attend the funeral of the particular law enforcement
9 officer killed by the conspiracy.

10 THE COURT: Mr. Light, you said the Defendants
11 want to limit the conspiracy to that? Is that what you said?

12 MR. LIGHT: That's what I said; for example, in
13 the briefing on the motion, the Rule 29 motion by Defendant
14 David Brian Stone, Jr., in which that briefing focuses on
15 whether or not the Government has proved a conspiracy to kill
16 a specific law enforcement officer and then to attack the
17 funeral of that law enforcement officer. And their briefing
18 is focused on whether or not that specific conspiracy has been
19 proved and whether or not David Brian Stone, Jr.'s
20 participation in that specific conspiracy has been proved.

21 THE COURT: Well, just one moment.

22 *(Brief pause.)*

23 THE COURT: All right.

24 MR. LIGHT: The conspiracy that is charged in
25 Count 1 is broader and more general than that.

1 One of the focuses also of David Stone, Jr.'s
2 arguments, as well as the other Defendants' arguments, is that
3 the Government hasn't proved a specific plan to commit a
4 specific attack, at a specific place, at a specific time, on a
5 specific law enforcement officer.

6 And I will readily concede that we have not
7 proved such a specific plan, but I will submit to the Court
8 that that's not required for the conspiracy that's charged.

9 The conspiracy that's charged is a conspiracy
10 that involves the overall intent and purpose of the Hutaree to
11 oppose law enforcement, to oppose the Brotherhood, as they
12 understand it. And the Brotherhood, as they understand it, is
13 composed of all law enforcement, including federal, state and
14 local law enforcement. And throughout the record there is
15 also specific reference to specific elements of federal law
16 enforcement as an aspect of the law enforcement forces that
17 the Hutaree oppose and intend to oppose by force.

18 THE COURT: Mr. Light, in your opinion, the
19 Government does have to prove -- in Count 1 I'm talking
20 about -- the conspiracy as charged and the plan as described
21 here?

22 MR. LIGHT: Yes.

23 THE COURT: Okay.

24 MR. LIGHT: Yes.

25 THE COURT: And so part of that plan is that

1 they believed -- well, let me back up.

2 The Government charges that the Defendants
3 intended to kill someone from law enforcement in some manner,
4 and a number of manners are outlined in Paragraph 3 of Count 1
5 under Means and Methods.

6 And then the second part of this conspiracy, as
7 outlined, is that once the killing has occurred, they would
8 expect that a funeral would be planned, and then the second
9 thing that the Defendants would do would be to attack the
10 funeral procession. That's the second thing.

11 Then they would retreat to a rally point
12 expecting, again, that the government would follow -- the
13 government, lower case -- and that they would defend
14 themselves there, and that all of this would spark an uprising
15 against the United States Government.

16 Magistrate Komives addressed this in one of the
17 early motions that was filed and did say -- I think it was in
18 the Motion to Dismiss and in the Request for a Bill of
19 Particulars on Count 1. In denying the Request for a Bill of
20 Particulars with respect to the charge of opposing the
21 Government by force -- and this Court accepted that
22 recommendation -- was that the Government did sufficiently
23 allege that the point of this conspiracy, the point of the
24 agreement was to spark this widespread uprising against the
25 United States.

1 MR. LIGHT: That's right.

2 THE COURT: And he said that that was an
3 essential part of this conspiracy.

4 So, as I review all of this, it seems to me that
5 the killing of local law enforcement, that's not essential to
6 a charge of seditious conspiracy. If it were, a lot of people
7 would be charged with seditious conspiracy who have killed
8 local law enforcement people. So, it's not essential.

9 The attacking the funeral procession is not
10 essential to a charge of seditious conspiracy. And at any
11 point that you think I'm wrong, you can tell me.

12 The rallying and conducting operations against
13 the government, lower case, is not essential.

14 Essential to this is the sparking of the
15 widespread uprising against the United States Government.
16 Otherwise, maybe there's some other criminal activity ongoing,
17 but it's not seditious conspiracy.

18 MR. LIGHT: Well, I believe that what's
19 essential would include attacking a funeral procession that
20 would include -- and I believe this is mentioned in one of the
21 discussions about this process -- that would include law
22 enforcement officers from all around the country and would
23 include federal, as well as state and local law enforcement
24 officers. That would support opposing by force the authority
25 of the United States.

1 But more importantly would be triggering a
2 response by law enforcement. Not necessarily a widespread
3 uprising, not necessarily a widespread revolt, although that
4 is something that is discussed repeatedly in the recordings
5 that we've heard in the course of the trial, but what is
6 essential is triggering a response from law enforcement
7 including federal law enforcement; that is, the authority of
8 the United States.

9 So, what we see here in various manifestations
10 throughout the recordings is an intent and a plan in various
11 ways to trigger responses from law enforcement, including
12 federal law enforcement.

13 I would point, for example, to discussions -- I
14 can't specify right now, but I reviewed regarding the process
15 of first attacking local law enforcement, so-called cannon
16 fodder of the Brotherhood or of law enforcement, and the
17 process then of causing a response by the feds., causing a
18 response by the higher authorities, causing a response
19 reaching up into the New World Order, as it's discussed, and
20 the Blue Helmets, as they are discussed, both of which would
21 have an aspect of federal authority in them.

22 So, it's really not the widespread uprising,
23 although that's discussed in many of the recordings, but it's
24 triggering the response from federal authorities and then
25 opposing those authorities.

1 So, I would not agree that there had to be a
2 widespread uprising or a plan for a widespread uprising to
3 constitute the conspiracy charged.

4 The conspiracy charged is not a conspiracy to
5 foment a rebellion and cause a widespread uprising, although
6 there is evidence of that intent in this case. The conspiracy
7 charged is to oppose by force the authority of the United
8 States by triggering a response by various authorities of the
9 United States through the methods that are alleged in the
10 indictment.

11 THE COURT: So, your point then is that this
12 part of the indictment, that Hutaree believed and intended
13 that such an engagement would be a catalyst for a more
14 widespread uprising against the United States Government, that
15 that is superfluous to the indictment?

16 MR. LIGHT: No, I wouldn't say that it's
17 superfluous, because as I said, there's evidence that that was
18 part of the intent. But I would say that it's -- it's part of
19 the allegations, but it's not essential to the elements of the
20 offense.

21 THE COURT: So, you could have left that
22 sentence off, you're saying, and we could still be here today
23 trying this case as it was tried?

24 MR. LIGHT: Yes, we could.

25 THE COURT: As it is being tried?

1 MR. LIGHT: Yes, we could.

2 THE COURT: Okay.

3 MR. LIGHT: But by alleging that and proving
4 it -- and I believe there is evidence to support that intent
5 and that part of the plan -- it supports what is essential in
6 this case, and that is a plan to oppose by force the authority
7 of the United States.

8 Now, the indictment includes then various ways
9 in which the group prepared for what we've been discussing so
10 far. And those specific allegations, to follow the Court's
11 questioning, are not essential to the elements of the offense,
12 but they do fill in the ways in which the Hutaree -- the means
13 and methods by which the Hutaree developed and evolved the
14 conspiracy and the plan that's charged in Count 1.

15 So that if we look at Paragraph 5 of Count 1,
16 it's a listing of various ways in which these objectives of
17 the conspiracy were prepared for and were planned for and were
18 developed. That includes obtaining and assembling all of the
19 materials that were necessary for the conflict with
20 authorities, including federal authorities, that were
21 necessary for opposing by force federal authorities.

22 5 A is obtaining firearms, including illegal
23 firearms, magazines, ammunition, machine gun, short-barreled
24 rifles, explosives and components for destructive devices, et
25 cetera, all of which has been the subject of extensive proof

1 in this case; is the materials that were obtained and
2 possessed and acquired at the Tomer Road location, at
3 Mr. Meeks' location, and at especially Mr. Piatek's location.

4 THE COURT: Excuse me.

5 MR. SATAWA: Your Honor, may I place an
6 objection on the record at this point?

7 Before we go too much further in what I'm sure
8 is going to be a very long and trying day of argument, is I'm
9 looking at 5 A, and it says "conspirators." And it says
10 conspirators acquired firearms, including at least five
11 machine guns and three other unregistered short-barreled
12 rifles.

13 Mr. Light was speaking of the conspirators and
14 then in connection with 5 A just said certain things were
15 found in the home of Mr. Meeks.

16 Mr. Meeks was not found with a machine gun.
17 Mr. Meeks was not found with a short-barreled rifle.

18 And as we go forward, I would ask the Court to
19 please instruct or require the Government to say exactly who
20 of these individuals, since they all have the right to an
21 individual determination by this Court on their own particular
22 Rule 29 motions, that he is speaking of. Because Mr. Meeks
23 did not have a machine gun. He did not have an unregistered
24 short-barreled rifle. And any suggestion to the contrary is
25 just one more fallacy by the Government.

1 MR. LIGHT: I'd appreciate the opportunity to
2 conduct my own argument. Mr. --

3 MR. SATAWA: And I would -- and I have a right
4 to object.

5 THE COURT: Excuse me, counsel. Please.

6 You are right, it is going to be a long day.

7 So, I don't want to get started this early with people
8 speaking over others so that I can't focus on anything that's
9 being said.

10 So, let me just end right there.

11 You can take your seat, Mr. Satawa.

12 MR. SATAWA: Yes, Your Honor.

13 THE COURT: Mr. Light, I think it's fair. I
14 think it's a fair point.

15 Part of the reason the Court asked the
16 Government to submit a trial brief in the first place was
17 because of the volume of evidence that was coming in and
18 because of the considerations that the Court had to give to
19 each of these Defendants as individuals and the determination
20 that the Court has to make about their specific intent.

21 And so I think it is a fair point at this
22 juncture. Until and unless it is established that all of the
23 Defendants were part of the conspiracies charged, then, you
24 know, the acts of everybody cannot be attributed to them. So,
25 for purposes of this argument, I think it's a fair point.

1 MR. LIGHT: Well, I understand the point, Your
2 Honor, and it is a point that Mr. Satawa is going to be
3 completely free to raise in his portion of his argument.

4 I was speaking generally in terms of what has
5 been alleged in the indictment and what has been proved to
6 support that.

7 I was not saying specifically that Mr. Meeks
8 possessed a machine gun. But I was saying that the members of
9 the conspiracy, specific members of the conspiracy had machine
10 guns, and that has been proved in this case. And specific
11 members of the conspiracy had short-barreled rifles, and that
12 has been proved in this case.

13 THE COURT: I understand that.

14 MR. LIGHT: Specific members had magazines and
15 ammunition, including Mr. Meeks.

16 THE COURT: Mr. Light, however, it is the
17 Government's burden to prove the specific intents of each of
18 these Defendants to engage in the conspiracies charged and to
19 do certain things.

20 And so all I'm saying is that it is a fair point
21 for you not to lump all of them together as we're trying to
22 establish whether they joined the conspiracies charged.

23 MR. LIGHT: Well, I believe the evidence in this
24 case points to specifically who possessed which firearm. And
25 we'll be here a very long time if we are going to go over

1 specifically, you know, what each person did at each moment of
2 all of the evidence that has come into this case over the past
3 seven weeks.

4 But to move on, through Paragraph 5,
5 military-style training was another element of the preparation
6 for conflict with the authority of the United States. And I
7 think I can say that every one of these Defendants was
8 involved in this military-style training. And every one of
9 these Defendants at one time, and usually at many times,
10 carried firearms in the course of that training. And I think
11 I can say, that as to many of them, they were involved in the
12 training, for example, on June 13th that involved
13 manufacturing and using destructive devices and explosives.

14 That does not include certain people. Tina
15 Stone wasn't there on June 13th, but others were. And that
16 was part of the process of preparing for conflict with the
17 authority of the United States and opposing the authority of
18 the United States once the plan was carried out.

19 Another element of the plan in Paragraph 5 D
20 involves David Brian Stone specifically, obtaining information
21 about improvised explosive devices and explosively formed
22 penetrators for the purpose of obtaining those to use in the
23 plan that's alleged in Count 1.

24 Joshua Stone was involved in that as well.

25 Tina Stone too was involved in that, as the

1 proofs in this case have demonstrated. She was intimately
2 involved in January and February in the meetings and
3 discussions at the undercover warehouse about obtaining the
4 elements of IEDs and EFPS to use in furtherance of the plan.

5 Mr. Meeks was involved in terms of being
6 assigned and tasked with obtaining street signs to use in
7 constructing IEDs and EFPS.

8 THE COURT: Can we go back to the second
9 conspiracy charge? I would like to focus first on the
10 seditious conspiracy.

11 And your focus -- or, you have the Court's focus
12 now on planning the funeral which would have triggered the
13 response, that would include a response from federal law
14 enforcement.

15 So, let's talk about that agreement, that
16 conspiracy, and how and when you believe that agreement was
17 first put in place.

18 MR. LIGHT: One moment, please, Your Honor.

19 (Brief pause.)

20 MR. LIGHT: Your Honor, what I would say to that
21 is this. From the beginning of the time frame of the
22 conspiracy as alleged in Count 1, there are repeated
23 discussions with various members of the conspiracy and with
24 the confidential human source and the undercover agent about
25 the need to oppose the Government and about the need to

1 oppose, if necessary, by force the Government in conjunction
2 with the upcoming war or conflict with the Government.

3 And this evolves to the point where on August
4 13th, in a meeting with the undercover agent and with Joshua
5 Stone and with Shannon Witt and with Pete Palmer, Mr. Stone
6 first talks about bombs, flour bombs, incendiary bombs
7 involving flour or coal dust and the purpose of those bombs
8 being to kill people.

9 He then goes on to speak of the Brotherhood,
10 which is not a new concept. It is a concept that has been
11 expressed in prior conversations and prior dealings. And he
12 says, "The Brotherhood is our problem. Once we take these
13 guys down, the rest of it will come."

14 He then goes on to plan and to describe with
15 Joshua Stone and the others present his plan to attack the
16 Brotherhood by killing an officer and then attacking the
17 funeral, and goes on to describe or to tell the undercover
18 agent that he wants shaped charges to take out convoys.

19 This is at the stage of the conspiracy where it
20 has moved towards more sophisticated explosives like shaped
21 charges and eventually explosively formed penetrators.

22 So, this is the point in the conspiracy where it
23 evolves to the plan that is described.

24 And I would say, as a matter of general
25 principle, a conspiracy doesn't have to be a fully formed

1 thing at the beginning. A conspiracy can be an evolving and
2 changing matter as it relates to participants in the
3 conspiracy, as it relates to objectives of the conspiracy, as
4 it relates to the methods and means of the conspiracy.

5 This is the point in the conspiracy where it
6 coalesces in the discussion between David Stone, Sr., Joshua
7 Stone, and the others who are present, of the plan to attack
8 the Brotherhood by killing an officer --

9 MR. HELFRICK: I'm sorry to interrupt. But
10 Mr. Light didn't say August 13th of what year.

11 MR. LIGHT: August 13th of 2009.

12 Thank you, sir.

13 THE COURT: So, of the Defendants that are here
14 on trial, you believe that an agreement was struck on August
15 13th between Joshua and David Stone to commit seditious
16 conspiracy?

17 MR. LIGHT: But that's not all.

18 THE COURT: Well, with respect to the Defendants
19 here.

20 MR. LIGHT: That's the --

21 THE COURT: Okay. Then what else?

22 MR. LIGHT: That's not all.

23 As time goes on, there is an evolution to the
24 point where on February 20th --

25 THE COURT: No, no, no, I understand. And I do

1 want you to go on.

2 MR. LIGHT: Mm-hmm.

3 THE COURT: But in terms of a first formation
4 involving any of the Defendants that are here, you are saying
5 that August 13th was the date that involved Defendants here to
6 kill law enforcement and attack a funeral procession that
7 involved federal officers?

8 MR. LIGHT: That specific aspect of the
9 conspiracy, yes, Your Honor.

10 But it's a broader conspiracy that's alleged in
11 this indictment. It's not just focused --

12 THE COURT: That's why I asked you in the very
13 beginning if we are talking about what the plan that you have
14 alleged in this indictment or are you talking about something
15 else?

16 MR. LIGHT: I'm talking about an overall plan to
17 oppose by force the authority of the United States.

18 THE COURT: So, how else -- maybe you need to
19 give me your broad outline first of how else you believe these
20 Defendants were going to oppose the United States Government
21 by force other than the funeral -- attacking the funeral
22 procession at which they believed federal and law enforcement
23 would be present.

24 MR. LIGHT: Well, for example, there are
25 discussions on a number of occasions of the idea of killing a

1 police officer, taking his or her identification, going to his
2 or her home, killing his family or her family, on the
3 proposition that that would cause a similar response by law
4 enforcement, a similar response by the Brotherhood, which
5 would result in the same actions by the Hutaree; that is,
6 retreating to a rally point and opposing law enforcement --
7 and opposing by the law enforcement, including federal
8 authorities, who would respond to an attack like that.

9 THE COURT: All right. So that I'm clear,
10 looking at this indictment then that sets forth various ways
11 that the Defendants would commit the killing of law
12 enforcement, you are saying that the evidence in this case
13 supports -- are you saying that the evidence in this case
14 supports everything that you've outlined in the means and
15 methods in Paragraph 3?

16 MR. LIGHT: Well, the scenario I've just
17 described, which is supported by the evidence, is a scenario
18 that's encompassed by the allegations in Paragraph 3.

19 The allegation is that there was a general plan
20 to commit a violent act to draw the attention of law
21 enforcement or government officials and to prompt a response
22 by law enforcement. That's the general plan; prompt a
23 response by law enforcement.

24 And then there are various ways in which that
25 can be accomplished: Kill a cop after a traffic stop, that's

1 going to prompt a response by law enforcement. Kill a member
2 of law enforcement and his or her family at home. That's the
3 one I just discussed. That's a way to prompt a response by
4 law enforcement. Ambush a member of law enforcement in a
5 rural community, that's another way of attacking law
6 enforcement and prompting a response. And then finally,
7 another alternative, killing a member of law enforcement and
8 attacking the funeral procession.

9 These are alternative methods that are alleged
10 in Paragraph 3. It's not just the funeral procession that
11 would be one way of triggering or prompting the response by
12 law enforcement that would lead to the conflict that the
13 Hutaree were seeking.

14 So, maybe I wasn't clear in my earlier response
15 to the Court.

16 THE COURT: So, Mr. Light, with respect to these
17 other attacks on law enforcement, you are not saying that
18 there was an agreement that the other ways of attacking
19 someone in local law enforcement was going to result in a
20 funeral procession to which all federal -- to which federal
21 law enforcement responded?

22 I guess what I'm focused on is how you draw
23 in -- how they were going to draw in the United States
24 Government.

25 I see the funeral procession.

1 MR. LIGHT: Mm-hmm.

2 THE COURT: I see that.

3 I'm not seeing how you are alleging they did
4 this or there was any agreement or any discussion that
5 involved these other ways of killing law enforcement that was
6 going to draw in the United States law enforcement.

7 MR. LIGHT: Well, I think if you look at the
8 evidence as a whole, their understanding was that once you
9 attack local law enforcement in one of the manners described,
10 that's going to elevate it to federal law enforcement. And
11 there's repeated discussion, for example, of the ATF and the
12 ATF's interest in matters of the kind that I'm describing
13 here.

14 So, the funeral is one clear way, but there are
15 other ways as well that I think the proofs in this case
16 support.

17 Now, I was talking about Paragraph 5 D which
18 relates to the importance of IEDs and --

19 THE COURT: But I'm not done with the first
20 count yet.

21 MR. LIGHT: I wasn't moving to the second count.
22 But Paragraph 5 D relates to the IEDs and EFPs being an
23 element of the seditious conspiracy and part of the means and
24 methods of the seditious conspiracy.

25 So, I'm sorry if I led the Court to believe that

1 I was already talking about Count 2.

2 THE COURT: One moment.

3 (Brief pause.)

4 THE COURT: So, Mr. Light, still with respect to
5 Paragraph 3 and Paragraph 4 of the means and methods,
6 Paragraph 3, which talks about attacking the funeral
7 procession with weapons of mass destruction, that phrase then
8 is intended to go only with and killing a member of law
9 enforcement that lasts -- and killing a member of law
10 enforcement and not with the other references to killing a
11 member of law enforcement?

12 MR. LIGHT: That's the way I read that
13 paragraph, Your Honor.

14 THE COURT: All right. And then -- so, that
15 one -- that method of killing someone in law enforcement has
16 its own way of drawing in federal law enforcement officials.

17 Then we have to look at Paragraph 4 of means and
18 methods and attach that to these other ways of killing law
19 enforcement in order to get the response from the federal
20 government?

21 MR. LIGHT: I think that's right, Your Honor.

22 And part of it is if you look at -- I know
23 you're going to think I'm taking you back to Count 2, but I
24 really am not, Judge.

25 The first part of Paragraph 4 is that the

1 Hutaree's general plan was further that -- well, I'm missing a
2 paragraph. I'm sorry. Give me a moment, Your Honor.

3 *(Brief pause.)*

4 MR. LIGHT: -- was further that once violation
5 action had been taken, they would retreat to a rally point and
6 conduct operations against the Government that would involve
7 trip wire and command detonated explosives, ambitious and
8 prepared fighting positions.

9 And I submit that that would involve the
10 authority of the United States that they would be opposing at
11 that point.

12 THE COURT: Okay. So, we talked a little bit
13 about August 13th where there was a specific discussion about
14 killing someone in law enforcement and attacking the funeral
15 procession.

16 MR. LIGHT: Correct.

17 And part of that discussion -- and part of the
18 idea of attacking the funeral procession is to use weapons of
19 mass destruction, to use shaped charges or to use explosively
20 formed penetrators as part of that attack. And that's
21 specifically mentioned at the end of the discussion on August
22 13th where Dave Stone says that he wants shaped charges for
23 the purpose of taking out convoys. And convoys can include
24 such things as a funeral procession.

25 And over the discussions after that relating to

1 shaped charges and EFPs, there are repeated references to the
2 usefulness of shaped charges to take out a convoy.

3 THE COURT: But where -- let me stay with this
4 agreement to kill and attack a funeral procession that you say
5 was formed on August 13th minimally involving David Stone and
6 Joshua Stone.

7 MR. LIGHT: Mm-hmm.

8 THE COURT: Who else became a part of that
9 agreement?

10 MR. LIGHT: Well, that's the evolution I'm
11 trying to show, is an evolution in terms of the discussion of
12 taking out convoys that then leads to a discussion on February
13 20th, again, about attacking a funeral. But it's all of a
14 piece. For example, on August 27th in a meeting with David
15 Stone, Joshua Stone, Joshua Clough and Shannon Witt, there's a
16 demonstration of a shaped charge and its ability to penetrate
17 a heavy steel plate.

18 Riding in a car with the group, David Stone says
19 "That would definitely take out a convoy."

20 THE COURT: And you said that date was August
21 27th?

22 MR. LIGHT: Yes.

23 THE COURT: And are you saying that that August
24 27th discussion is what then brought in Joshua Clough and
25 Shannon Witt?

1 MR. LIGHT: Well, Shannon Witt was at the prior
2 discussion.

3 THE COURT: Okay.

4 MR. LIGHT: This brings Joshua Clough into this
5 evolution of the plan. And later on it brings in Michael
6 Meeks who joins them after the device is exploded, but
7 recognizes immediately it's a shaped charge and participates
8 in later discussions with the group regarding this kind of
9 explosive and its usefulness to take out convoys.

10 THE COURT: And, again -- so, you are saying by
11 the end of the day on August 27th, we now have Clough and
12 Meeks in because of this discussion, a discussion to take out
13 convoys, and that they are now part of this agreement to kill
14 law enforcement and to attack a funeral procession?

15 MR. LIGHT: Yes, I am, especially since later on
16 in the discussion David Stone again talks about his guy who
17 could "build mortars and has the capacity to stop them in
18 their tracks, going down the road, and then drop things in on
19 top of their heads."

20 THE COURT: And what is it about convoys that
21 makes it clear that it involves federal law enforcement?

22 MR. LIGHT: I think as we go on, you will see
23 that it gets tied together later on.

24 THE COURT: So, I guess my question is -- I'm
25 not seeing anything that makes it clear that federal law

1 enforcement is part of convoys at this point.

2 So, are Clough and Meeks in this yet?

3 MR. LIGHT: I believe they are. Because they
4 don't have to know every aspect of the conspiracy.

5 THE COURT: But this conspiracy is against the
6 United States. That is the aspect of seditious conspiracy.

7 MR. LIGHT: And this record is replete with
8 opposition -- discussions of opposition to the authority of
9 the United States.

10 THE COURT: I understand that --

11 MR. LIGHT: And in the context of that
12 discussion and that opposition to the authority of the United
13 States, I think it can readily be inferred that the convoys
14 they are discussing are convoys that would involve federal law
15 enforcement or federal military authorities.

16 In fact, at the end of this discussion,
17 Mr. Meeks and Mr. Stone further discuss the usefulness of a
18 shaped charge as a kind of anti-tank mine.

19 The Court and the jury are allowed to make
20 reasonable inferences from the overall tenor of the
21 discussions as to what was intended when they are talking
22 about convoys. And I think it's a reasonable inference that
23 they are not talking about convoys of local police going down
24 the road; they are talking about convoys that can and would
25 include federal authorities.

1 THE COURT: Okay. So, in your mind, by August
2 27th, three of these Defendants are in Count 1?

3 MR. LIGHT: At least.

4 THE COURT: Okay. I haven't heard anything with
5 respect to the others yet.

6 MR. LIGHT: Taking us to January 14th, 2010, the
7 undercover agent met with David Stone and Tina Stone, who is
8 now an active member of the group, at the undercover warehouse
9 in Ann Arbor. And this is the meeting where he shows them a
10 workroom for making explosives for the Hutaree, that has
11 explosive devices and supplies there, including cast boosters,
12 which are a detonation device for detonating low explosives,
13 and electric blasting caps, as well as dynamite and pipe bomb
14 components and other items.

15 During this discussion Mr. Stone Says: "We
16 ain't that far off. We're doing pretty good as a group."

17 And he goes on to speak of using IEDs and shaped
18 charges to take out convoys. And he talks about using coffee
19 cans and concave copper to make the shaped charges or EFPs.
20 And he agrees to provide information to the undercover agent
21 to build those devices; again, in the context of talking about
22 them to use them to take out convoys.

23 The agent asks him, "How many do you want?"

24 And David Stone said, "As many as you can make."

25 And I will submit that that brings Tina Stone

1 within the group, who is aware of the purpose for which they
2 are going to use these explosives or planning or conspiring to
3 use these explosives.

4 THE COURT: Again, because David Stone says that
5 these IEDs and shaped charges can be used to take out convoys?

6 MR. LIGHT: Yes.

7 THE COURT: And "We ain't that far off"?

8 MR. LIGHT: And what?

9 THE COURT: And "We ain't that far off."

10 MR. LIGHT: Yeah.

11 THE COURT: And how does it bring in Tina Stone?
12 Because he said that in front of her?

13 MR. LIGHT: And she's there for the discussion,
14 for the understanding that these elements that are in the
15 warehouse are being made available to the Hutaree to make
16 these explosives. And she is participating in the discussion.
17 She is an active an engaged participant in the discussion.

18 And this isn't the only time that she comes to
19 the warehouse and shares in the discussion and planning for
20 the use of these explosives.

21 THE COURT: What does she say?

22 MR. LIGHT: I guess we are going to have to find
23 the transcript.

24 I have 49 A -- actually 49 J and 49 K.

25 (Brief pause.)

1 MR. LIGHT: Looking at 49 K on page 88, this is
2 with Tina Stone present.

3 The agent says, "It can go through a quarter
4 inch of steel. I don't think that will be much of a problem
5 going through a door."

6 David Stone: "IEDs."

7 The agent: "What do you got in mind?"

8 David Stone: "Shaped charges. Just got to take
9 some -- unintellible."

10 The agent: "Yeah? Anything in particular?"

11 David Stone: "Pickups and convoys. We'll back
12 them out of our region real quick."

13 The agent: "Mm-hmm."

14 David Stone: "Shut down their supply lines,
15 make 'em go way out and around us."

16 The agent: "What kind of shaped charge you
17 talking about?"

18 David Stone: "It has to be a copper."

19 The agent: "Copper?"

20 Stone: "Use a coffee can."

21 The agent: "Mm-hmm."

22 Stone: "With a copper plate concaved in."

23 The agent: "Right."

24 Stone: "That and a pile of explosive, whatever
25 you toss (unintelligible) trigger off on it."

1 here that well."

2 Stone: "Not at the beginning they won't."

3 At the beginning.

4 The agent: "Right."

5 Stone: "But they will. They will learn."

6 The agent: "Well, yeah, sure. But you know, we
7 change too."

8 Stone: "If they change, we'd have to adapt and
9 change also."

10 Tina Stone: "Well, if they were cops, all we'd
11 have to do is give them free doughnuts."

12 Stone: "Well, you ain't even got to do free
13 doughnuts. Just put out a sign free doughnuts."

14 Tina Stone: "Yeah."

15 David Stone: "With an arrow, and they will
16 follow."

17 The agent: "Right. Coffee cans with metal. I
18 think I can figure that out."

19 Stone: "I have that on file."

20 The agent: "Yeah? Are there like specs on it,
21 some kind of drawing or something?"

22 Stone: "I'll have to dig in my computer."

23 The agent: "Well, shoot that my way. I'll do a
24 little research and development for you and see what I can
25 work out. And uhm -- if I figure it out I -- how many you

1 want?"

2 David Stone: "Say what?"

3 The agent: "I said if I figure it out to make
4 it work, how many do you want?"

5 David Stone: "As many as you can make."

6 Tina Stone: "Like we need to give him some
7 light bulbs."

8 So, she's -- she's there. She's listening.

9 THE COURT: I understand that she's there.

10 MR. LIGHT: She is understanding.

11 THE COURT: She is there.

12 And so much of this case is about people being
13 present and people being in association with other people.

14 Are you telling me that this exchange here on
15 January 14th is sufficient to prove that Tina Stone had
16 knowledge that there was a plan to attack a convoy of law
17 enforcement people that involved federal officials?

18 MR. LIGHT: I'm saying it's sufficient to show
19 that she was aware and agreed to a plan to attack a convoy
20 with the kinds of weapons that are being discussed here. And
21 that from the entire context of her participation in the
22 Hutaree, it's reasonable to infer that she understood that
23 that would include federal authorities, United States
24 authorities.

25 THE COURT: All right. So, you have talked

1 about four of the Defendants.

2 MR. THOMAS: Your Honor, at the risk of breaking
3 off this argument prematurely, may I have a five-minute break,
4 please?

5 THE COURT: Yes. We'll take five.

6 (Recess held from 10:18 a.m. until 10:29 a.m.)

7 THE COURT: So, Mr. Light, before we leave Tina
8 Stone, just -- and Michael Meeks, are you saying that they
9 agreed to the -- they are now into the conspiracy first
10 discussed on June 13th by -- between David Stone and Joshua
11 Stone and others, or is it something --

12 MR. HELFRICK: August 13th.

13 THE COURT: August 13th. Thank you. August
14 13th.

15 Or is it something broader?

16 MR. LIGHT: I would say, at the very least, it's
17 the broader conspiracy at this point in time.

18 And, again, I want to go back to paragraph --

19 THE COURT: And the broader being just a ...

20 MR. LIGHT: A what?

21 THE COURT: An attack after some law enforcement
22 person has been killed. And up to this point, there hasn't
23 been any evidence of a discussion of killing a police officer
24 in a different context, has there been?

25 MR. LIGHT: Yes, there has.

1 THE COURT: All right.

2 MR. LIGHT: There have been numerous discussions
3 of killing police officers in a variety of contexts, including
4 the discussions about killing officers and then going and
5 killing their families.

6 THE COURT: That Michael Meeks and Tina Stone
7 have been a part of?

8 MR. LIGHT: I'm going to have to dig to come up
9 with the specifics on that. I don't have that on the top of
10 my head.

11 THE COURT: Okay. It is important to the Court.
12 I want to know what it is that you're saying they have agreed
13 to.

14 If you are saying that you don't -- are you
15 saying that you don't necessarily have to prove that they were
16 in agreement that someone from law enforcement would be killed
17 to spark this gathering of federal law enforcement?

18 MR. LIGHT: No, I'm not saying that at all.

19 THE COURT: So, are you saying that they have to
20 have been part of an agreement to kill law enforcement, local
21 law enforcement?

22 MR. LIGHT: Yes.

23 THE COURT: And I need to know where you say
24 Michael Meeks and Tina Stone were part of an agreement to do
25 that.

1 MR. LIGHT: Well, Tina Stone is part of a -- the
2 agreement to kill a member of law enforcement as a way of
3 triggering the response that I'm talking about is an agreement
4 that is reflected in various ways along the course of the
5 conspiracy.

6 We've been focusing on one of the ways; that is,
7 to attack the funeral procession after that. And it's in that
8 context that Tina is directly involved in the discussion we
9 just read and in some other discussions about the process for
10 getting the explosives that are necessary to attack that
11 convoy.

12 THE COURT: And --

13 MR. LIGHT: And I believe that if you take that,
14 together with her presence for other discussions regarding
15 opposition to law enforcement, that you can infer her being a
16 party to that agreement.

17 THE COURT: Okay. So, she's present during this
18 discussion.

19 Are you saying that her comment "I guess I'll
20 have to drink coffee that comes in metal cans now," that that
21 is her way of agreement to be part of the conspiracy?

22 MR. LIGHT: That's one way in which she agrees
23 to be part of getting the materials that are necessary to
24 build the devices that are to be used in attacking a convoy.

25 I mean, she says one thing, but she's there

1 while the discussion talks about burying those devices in the
2 road and attacking convoys.

3 THE COURT: I know that she --

4 MR. LIGHT: She doesn't have to say "Yes, sir, I
5 agree that that is what we're going to do" to be part of the
6 agreement to do what they're talking about.

7 THE COURT: All right. Well, but it does get
8 back to people being merely present.

9 She's there. She's not saying anything in
10 response.

11 How do you get past a mere presence argument for
12 someone who is in a discussion, even a discussion about
13 something that may be illegal, without something else that
14 expresses their intent to be part of the conspiracy?

15 That's why I'm asking you -- first of all, I
16 need to know where you say she was present at a discussion to
17 kill someone in law enforcement, number one.

18 If you say that that is essential to this, then
19 what did she say in response to that discussion?

20 If she didn't say anything, then we have her
21 saying "I guess I have to drink more coffee that comes in
22 metal cans." Her presence, plus that comment.

23 And I need to know if you are telling me that
24 that is sufficient; her presence at discussions and then that
25 comment, "I guess I have to drink coffee in metal cans," if

1 that is what gets her into this conspiracy.

2 MR. LIGHT: Well, that certainly gets her in the
3 door of the conspiracy, but it's not the only evidence against
4 her, because she comes back and she comes back and she comes
5 back.

6 And the law says that mere presence -- mere
7 presence is not sufficient to show participation in a
8 conspiracy or in an offense, but presence is a factor that the
9 Court and the jury can consider.

10 And if it's repeated presence and it's repeated
11 presence in the context of discussions like this, then that is
12 certainly a factor that the Court and the jury can consider.

13 And if it's repeated presence combined with
14 action, then that is certainly something that the Court can
15 consider.

16 And later on in the evidence you have Tina not
17 only saying we're going to have to get metal coffee cans, but
18 you have her getting and turning over coffee cans.

19 You have her talking about getting wine
20 bottles --

21 MR. RATAJ: Your Honor, I've got to place an
22 objection. There's absolutely no evidence that she gave
23 Jersey Steve anything. And he testified to that under oath
24 right in that box.

25 THE COURT: Including coffee cans? Including

1 coffee cans, Mr. Rataj?

2 MR. RATAJ: Anything. I asked him if she gave
3 him anything, and he said no.

4 THE COURT: Okay. Thank you.

5 Is that true, Mr. Light?

6 MR. LIGHT: I don't -- I don't think so, but I
7 will have to check to confirm if that's true.

8 THE COURT: Okay.

9 MR. LIGHT: But she certainly was part of the
10 process and talked about being part of the process of
11 obtaining those materials.

12 Whether the undercover got them directly from
13 her or from someone else, I think the record as a whole
14 supports the proposition that she was a part of the group that
15 put them together, that got them for the undercover agent --

16 THE COURT: That gathered what?

17 MR. LIGHT: That gathered these materials.

18 She talks about it. She talks about obtaining
19 wine bottles. She talks about obtaining coffee cans.

20 On February 6th in the morning there's a
21 discussion of the coffee cans that she has obtained and the
22 fact that they are cardboard coffee cans, and that cardboard
23 coffee cans won't work; they have to be steel coffee cans.
24 And, lo and behold, later on there are steel coffee cans.

25 I think there's abundant evidence from which you

1 can conclude and infer that she was part of the process of
2 getting those coffee cans, getting those materials, with an
3 understanding that they were to be used in the manufacture of
4 explosively formed penetrators for use on convoys.

5 THE COURT: All right. Mr. Light, just so that
6 I don't have to keep asking this question, is it your
7 position -- is it the Government's position that in order for
8 any of these Defendants to be considered to be part of a
9 conspiracy, that they had to have been present during a
10 discussion to kill someone in law enforcement?

11 MR. LIGHT: No, they don't have to be present
12 for a specific discussion of that.

13 There has to be sufficient evidence from which
14 the Court and the jury can infer an awareness that that was
15 one of the objectives of the group they were in. They don't
16 have to be party to a specific discussion about either killing
17 a member of law enforcement for the purpose of attacking a
18 funeral -- which is one aspect of the broader scheme in
19 Paragraph 3 -- or a specific discussion of killing a law
20 enforcement officer in one of the other means, as long as
21 there's evidence from which the Court and the jury can infer
22 an awareness that that was the plan and that was the objective
23 of the group that they were part of.

24 THE COURT: And that they became -- and that
25 they bought into that?

1 MR. LIGHT: Yes.

2 THE COURT: Mm-hmm.

3 Kill law enforcement officers and attract a
4 federal presence?

5 MR. LIGHT: Exactly, Your Honor.

6 THE COURT: So, you are going to tell me about
7 Tina Stone and Michael Meeks and where they -- how we can
8 infer an awareness that they knew an objective was to kill law
9 enforcement officers and to attract a federal presence.

10 MR. LIGHT: Okay. I'll go on to some more of
11 the evidence that relates to Mr. Meeks, as well as Mr. Piatek,
12 Joshua Stone and David Stone and Joshua Clough. And that's
13 the car trip on February 6th, 2010.

14 As I indicated earlier, at the beginning of that
15 recording, before that group departs from the Tomer Road
16 location bound for Kentucky, there are conversations in the
17 trailer, in the kitchen or living area of the trailer, with
18 David and Tina Stone about explosively formed penetrators,
19 about obtaining wine bottles, about obtaining coffee cans,
20 about obtaining street signs to use to make those explosively
21 formed penetrators. In fact, during this meeting, Mr. Stone
22 gave the agent a great diagram of an explosively formed
23 penetrator.

24 And there was discussion with Tina Stone about
25 the procedures to be implemented if something happened to the

1 group while they were on the road or while they were at the
2 militia summit that was to take place in Kentucky. And she
3 was prepared for what was called a red dog alert and was
4 prepared to clear out the guns and the gear and the ammunition
5 that were in the Go-to-War Room of the trailer if something
6 happened.

7 Then the group that I've described drove towards
8 Kentucky. We've listened to some of the recording of what was
9 discussed during that attempt to get to Kentucky and the
10 return. And there was a discussion of what it takes to get to
11 the feds.

12 And if we look at the transcript of Government
13 Exhibit 54 D, this is a discussion that's taking place while
14 Mr. Piatek is present. Mr. Clough is present. David Stone is
15 talking. The undercover agent is talking. And the other
16 riders are present in the car as well.

17 David Stone Says: "The secret society still got
18 to have -- to have their henchmen. A lot of henchman and
19 you're nothin'."

20 One voice: "They can be silenced real easy."

21 The agent: "Was that coming from the state or
22 the feds., though, or both?"

23 David Stone: "Both. They are in bed together
24 so bad, that they're so intertwined, that you can't separate
25 the two of them."

1 And I would interpose here. This is the mindset
2 that is expressed repeatedly in the presence of all of the
3 members of the group from time to time; that they are so
4 intertwined, you can't separate them. That's the view of the
5 Hutaree.

6 "The feds. and the rest of law enforcement are
7 in bed together so bad, that they're so intertwined, you can't
8 separate the two of them."

9 The agent says: "Yeah."

10 Stone says: "Can see it down to the county
11 level."

12 The agent: "Well, they probably all controlled
13 by feds., you think?"

14 David Stone: "Yep."

15 "So, how do you get to the feds.?"

16 "Well, you can't just go to the feds., because
17 the fed has all these levels protecting them in between."

18 The agent says: "Right."

19 Stone says: "Well, you need to start hacking
20 away."

21 The agent says: "Won't that give them time to
22 get their stuff together, though? They'll see it coming?"

23 Stone: "Unfortunately, I think it's going to
24 come real quick and real, real fast."

25 The agent: "Well, that might play to our

1 advantage then. It won't give them time to mobilize
2 everything they need to."

3 Stone: "Yeah."

4 The agent: "Get all their moving parts going."

5 Stone: "By the time they can really fire off
6 their big machine to get really moving, there will be major
7 sections of the territory that's already going to be lost to
8 them."

9 I think that's emblematic of the view of Stone,
10 and the views that he expresses repeatedly to the Hutaree,
11 that the feds. and the state and the locals are inextricably
12 intertwined, and that to attack one of them is to attack all
13 of them.

14 And that goes to the heart of the general
15 conspiracy that's alleged in this case in Paragraph 3 of Count
16 1 that does include the specification of one way of attacking
17 local law enforcement and provoking a federal response, but
18 it's not the only way. And it's not the only way that's
19 alleged and it's not the way that David Stone and the Hutaree
20 understood it. They understood that by -- and believed that
21 by attacking any element of law enforcement, they were
22 attacking the authority of the United States and the federal
23 government.

24 Now, later on -- or, actually earlier in that
25 conversation also was Mr. Meeks, Mr. Piatek, Mr. Joshua Stone,

1 Mr. Clough and the agent in the van.

2 Mr. Stone says: "My philosophy is let's just go
3 to war. Whenever it's all done with, and then we'll see
4 what's left."

5 On the way back, Stone discusses with those
6 parties present his idea of taking over a zone; by first
7 taking out what he calls a gang of law enforcement, he calls
8 the Brotherhood.

9 Then he goes on to say "But until people realize
10 that and stand up in one voice and say no, we mean no, it's
11 not going to happen, like in my speech, Mikey," speaking to
12 Mr. Meeks.

13 And then he gives the speech that we've heard
14 and seen on video that includes the Hutaree's intention to
15 oppose the law enforcement mercenaries called the Brotherhood
16 and to oppose the New World Order, and then concludes with the
17 remark, "Welcome to the new revolution."

18 THE COURT: So, Mr. Light, if you could tell me
19 then, at what point do you believe the other Defendants were
20 drawn into this seditious conspiracy?

21 MR. LIGHT: Well, I think Mr. Meeks is in it
22 now. Mr. Piatek is in it now.

23 THE COURT: As of February 6th? I mean --

24 MR. LIGHT: If not earlier.

25 THE COURT: Because -- all right. Because they

1 heard this conversation?

2 MR. LIGHT: And they were party to it and did
3 not disagree with it and continued to participate and were
4 present later on when the car -- or, the van passed a police
5 car that was stopped with a car on the road with a flat tire,
6 and David Stone talked about how we're going to pop him one of
7 these days, referring to the Hudson, Michigan police officer
8 who was there by the side of the road, and went on to say
9 we're going to pop every one of them, meaning all of the
10 members of the Hudson, Michigan Police Department.

11 THE COURT: And are you saying that it was
12 incumbent on them to disagree in order not to be considered
13 part of a conspiracy?

14 MR. LIGHT: I'm saying that if they had shown
15 disagreement, it might be evidence that would -- could be used
16 to show that they weren't party to the intentions expressed by
17 Mr. Stone, certainly.

18 THE COURT: This is very troubling, Mr. Light.
19 I just think back to so many discussions that I may have been
20 a part of where people are saying things that I don't agree
21 with, but I don't necessarily register that disagreement. It
22 doesn't mean that I agree with what they're saying.

23 MR. LIGHT: It doesn't. But if you are party to
24 that discussion and it's in the context of being a member of
25 that group on repeated occasions and in the context or

1 participating in activities of that group on repeated
2 occasions, and it's in the context of hearing other
3 expressions by other members of that group of a similar nature
4 on repeated occasions, then it can add up to an inference that
5 you are in agreement with what's being said.

6 If it's one time in one place and it's one thing
7 being said, I fully understand. I hear things said, myself,
8 that I don't agree with and I don't jump up and say ah-hah,
9 you're wrong. But that's different from being a member of a
10 group, participating in their activities, listening to the
11 same kinds of discussions frequently --

12 And this isn't the only time that David Stone
13 expressed these kinds of attitudes towards police officers.
14 It's not the only time that Michael Meeks expressed these
15 kinds of attitudes towards police officers. You see that
16 repeatedly in some of the recordings that we've heard in this
17 case.

18 You see Mr. Piatek in this very recording
19 expressing his attitudes and his negative attitudes towards
20 police officers.

21 It's not just that somebody remained silent.
22 It's that somebody remained a party to the conversation and
23 then carried it on further.

24 THE COURT: Let me ask you a question about
25 Mr. Piatek.

1 Isn't it in that discussion though that he says
2 that "not all cops are bad"? Did he say something like that?

3 MR. LIGHT: He does say something later on about
4 "not all cops are bad."

5 But if you look at the entire discussion --
6 that's just one little bit of that discussion that Mr. Weiss
7 picked out of the transcript. If you look at the entire
8 transcript of the discussion, I think it reflects an attitude
9 that's on par with the attitude that Mr. Stone was expressing.
10 And that's earlier in the conversation before we got to the
11 specific point where Mr. Stone says we're going to pop the
12 Hudson, Michigan police officer. That's earlier --

13 THE COURT: All right. But so what?

14 And I don't mean to say that lightly, because
15 many things that were said by the Defendants are quite
16 offensive. But so what?

17 Where is -- you know, what I'm hearing is
18 because they didn't disagree and they didn't disagree on a
19 number of occasions, even though they were in the presence of
20 Mr. David Stone, Sr., and they didn't disagree numerous times
21 with things that he said that were quite offensive, maybe even
22 illegal, that that makes them guilty of a conspiracy.

23 MR. LIGHT: As long as they're not disagreeing,
24 they're going along, they are continuing to participate in the
25 activities, they are contributing their efforts to the overall

1 activities of the group, I think that's the sufficient to
2 support an inference, if you view the evidence in a light most
3 favorable to the Government, that they have agreed.

4 Our brief cites the standard case law that says
5 that you don't have to have an express agreement to find
6 conspiracy. That you can infer agreement to a conspiracy from
7 the combination of the information available to the
8 individual, along with the acts taken by the individual.

9 I submit that if you look at all of the evidence
10 together, it's sufficient to support the inference that
11 Mr. Piatek was in agreement with the objectives of the group,
12 he was in agreement with the plan of the group, and he
13 continued on with the group.

14 THE COURT: All right. So, what is the action
15 that Mr. Piatek took?

16 MR. LIGHT: He came back repeatedly to the
17 training sessions over the period that he was a member of the
18 conspiracy. He came back from --

19 THE COURT: But how do we know -- how do we know
20 that he was training towards opposing the United States?

21 MR. LIGHT: Based upon his concurrence as shown
22 circumstantially with the objectives expressed by David Stone
23 and others repeatedly during his presence in the conduct of
24 the conspiracy.

25 I think if you look at the video --

1 THE COURT: I'm sorry?

2 MR. LIGHT: If you look at the video of that
3 part of the February 6th expedition, of the period of time
4 when David Stone, Sr. delivers his diatribe, that includes his
5 diatribe against what he calls "the Mercenaries of the
6 Brotherhood" and expresses his intention to oppose by force
7 those authorities, the expression on Mr. Piatek's face speaks
8 volumes. It speaks not to him just sitting there and
9 acquiescing, not to him just sitting there and ignoring, not
10 to him just hearing and not feeling like responding to, but
11 him accepting and agreeing and being a party to the sentiments
12 being expressed there. That video speaks worlds.

13 Now, finally, I'd like to also direct the
14 Court's attention to what takes place on February 20th.

15 This might not be finally, but I'll try to get
16 there soon, Your Honor.

17 February 20th there's a training session at
18 Tomer Road. Present for the training session are David Stone,
19 Joshua Stone, David Stone, Jr., Joshua Clough, Kristopher
20 Sickles with Michael Meeks coming on later on in the day.

21 There's discussion about what David Stone
22 believes would trigger the war, saying, "No, I'd go today.
23 But are you ready to go? Are you ready to go? Are you ready
24 to go?"

25 Pointing to individual members of the group.

1 And that discussion then turned to the ways in
2 which you might kill a police officer if you are pulled over
3 at a traffic stop, with David Stone actually demonstrating how
4 you could use a short-barreled rifle and open the door to do
5 that.

6 Mr. Meeks wasn't yet present, but the others
7 were present for that discussion.

8 And then later on after the training there was
9 an extended conversation about killing police officers. That
10 discussion begins with a reference by Mr. Meeks and by Joshua
11 Stone to "copicide." In response to that, Mr. Stone, Sr.
12 suggests that it would be preferable to shoot them at a
13 distance to increase the number coming after you.

14 And then later, after some more talk about
15 killing police, Stone, Sr. expands on the idea for this group.
16 "Shoot one from a distance. Sit back and wait for the
17 funeral, attracting cops from every state in the country."

18 And then still with the group sharing in the
19 discussion, Stone said "I'm thinking IEDs. You just blow the
20 whole convoy up, kaboom." Which is consistent with all of the
21 discussions that have been taking place between Mr. Stone,
22 Sr., Joshua Stone, Tina Stone and the agent and others about
23 obtaining the materials with which to make the IEDs or, more
24 specifically, the EFPS that would be used to blow up a convoy
25 like this.

1 THE COURT: So, this is the first time you've
2 mentioned Mr. Sickles.

3 MR. LIGHT: Yes.

4 THE COURT: And David Stone, Jr., I believe.

5 MR. LIGHT: Yes.

6 THE COURT: Is this when you're saying the two
7 of them were drawn into . . .

8 MR. LIGHT: Into this specific aspect; that is,
9 the funeral procession aspect of the conspiracy.

10 But once again, Your Honor, I don't want to
11 limit the focus to the funeral procession. There are other
12 discussions and there's a broader conspiracy alleged that
13 involves the other ways in which to attract a response by the
14 Brotherhood, which I would say, under the evidence in this
15 case, automatically involves federal authorities based in part
16 on the kind of idea that I just read from of Mr. Stone, Sr.
17 equating them all together, which is --

18 THE COURT: And -- I'm sorry.

19 MR. LIGHT: -- which is -- you know, which is
20 the idea that permeates a lot of these discussions. Is that
21 they are inextricably intertwined and that taking on one is to
22 take on all and will provoke a response that we can then
23 oppose by force.

24 THE COURT: And I know you are not saying that
25 all of the Defendants were part of the other discussions

1 that -- about killing someone from local law enforcement, but
2 are you saying that they did not necessarily have to be part
3 of a discussion about killing law enforcement?

4 MR. LIGHT: Yes.

5 THE COURT: You are saying they did not have to
6 be --

7 MR. LIGHT: I'm saying they did not have to be
8 part of a specific discussion for the rest of the evidence, of
9 the discussions that they were part of, that might not be a
10 specific discussion about the funeral procession plan, to be
11 party to that agreement based on their actions and based on
12 their understanding of the aims of the group.

13 Just to close the circle as it relates to the
14 involvement of David and Tina Stone, along with Joshua Stone,
15 in assembling the materials for the EFPs, there was the
16 meeting on March 18th, 2010 that started at Arby's and then
17 moved on to Tomer Road, where, again, there was discussion
18 about how to assemble the materials for the EFPs, including
19 wine bottles, coffee cans and road signs and the actual
20 delivery at Tomer Road to the agent of a road sign and coffee
21 cans and a bean can to make those EFPs.

22 I would also, parenthetically, indicate that at
23 the time of the arrests at the warehouse, about nine days
24 later, the vehicle that David Stone drove there with others in
25 it had four or five more road signs in the back of it that

1 obviously had been brought there with the intent that they be
2 used to make EFPs as well. So, it's not just the one road
3 sign that was delivered on March 18th.

4 There's a little bit of additional evidence with
5 regard to Mr. Sickles' involvement and participation in the
6 scheme, and that's the specific conversations that he had with
7 Joshua Clough in chat sessions, particularly chat sessions on
8 February 19th the day before the training where there was this
9 specific discussion of killing a police officer, leading to a
10 funeral convoy or procession that could be attacked. And in
11 those chats Mr. Sickles expresses caution about what to say in
12 front of that Dan guy because Dan seemed to hesitate and to
13 ask a lot of questions when Joshua Stone talked about the Real
14 World op. that was planned for April.

15 Sickles later on said: "Well, I trust all the
16 inner Hutaree members," and shows his understanding of the
17 meeting of the April op.

18 He says: "Josh said we were going somewhere
19 for, I think it was April's training, and he wasn't sure where
20 yet, but we are treating it like a real op. And if we come
21 across someone and they're not willing to work with us ..."

22 And Clough responded: "That's always been the
23 case."

24 The next day, February 20th, Sickles came back
25 for the training and was an active participant in the

1 discussion that we've already talked about, about killing a
2 single cop and then attacking the funeral with IEDs.

3 I think what I've been discussing so far, I've
4 been relating it to Count 1, the seditious conspiracy count,
5 but it also -- the parts relating to the explosives, the IEDs,
6 the EFPS, all relate to Count 2 as well.

7 And Count 2 was a conspiracy to use explosive
8 devices, variously defined. In fact, the definitions on these
9 are weapons of mass destruction, destructive devices or bombs
10 or explosives; to use them against persons or property in the
11 United States.

12 And that's a charge that does not hinge on those
13 persons or property being necessarily federal persons or
14 federal property.

15 The charge itself specifies that the intent was
16 to use those explosive devices against law enforcement
17 personnel or their vehicles, but it does not, by its terms --
18 that charge does not by its terms limit itself to the
19 involvement of federal authorities. That's not an element of
20 the violation, that the proposed targets of the conspiracy to
21 use explosives devices be federal authorities.

22 Under its terms, that charge relates to an
23 intent to use and a conspiracy to use those explosive devices
24 against law enforcement vehicles or law enforcement personnel,
25 which would include the convoys that are repeatedly referred

1 to in the conversations that we've heard about.

2 And that's the nature of that charge.

3 THE COURT: All right.

4 MR. LIGHT: Now, I don't see the need to address
5 the rest of the charges in the indictment. They are either
6 independent -- and I don't believe they are being challenged
7 on Rule 29. That is, the weapons charges, for the possession
8 of illegal weapons.

9 I agree that the 924(c) charges involving the
10 possession of weapons during the conspiracies hinge on whether
11 or not the conspiracies are valid charges.

12 THE COURT: All right.

13 MR. LIGHT: Let me check and see if there's
14 anything else that . . .

15 I'm getting a shake of the head. I think I've
16 used my 20 minutes already, Your Honor.

17 THE COURT: All right. Thank you.

18 MR. LIGHT: Thank you.

19 THE COURT: All right. Who is the first
20 responder?

21 MR. SHANKER: I will be, Your Honor.

22 Your Honor, to quote my brother counsel, Michael
23 Rataj, what country are we in?

24 I mean, I am hearing an argument that people who
25 are present for a discussion, that may have offensive

1 components to it, that if they don't affirmatively disagree,
2 that they have been drawn into a conspiracy.

3 It's chilling to me.

4 I mean, think through your life the people that
5 you've talked to and you want to be diplomatic, they are
6 saying something offensive and you don't say anything.

7 And I think what's important here is that all of
8 these Defendants, there were many reasons for them to show up
9 at the training, legal reasons. To express themselves by
10 training to defend their families, by -- they have a property
11 there that is a nice place for militia training. They are gun
12 enthusiasts. And they have Second Amendment right to do that.

13 THE COURT: Mr. Shanker, let me ask you this.
14 While the conspiracy has to be something unlawful --

15 MR. SHANKER: Correct.

16 THE COURT: -- an overt act alleged to further
17 that illegal act can be perfectly legal. Right?

18 MR. SHANKER: It could be. But the problem here
19 is there's no agreement to anything illegal. And that is the
20 fundamental problem I think.

21 THE COURT: So, that really is the focus.
22 Because I know that a lot of what the Defendants did
23 technically are legal things. But that doesn't matter if the
24 Government says that it was to accomplish an illegal purpose.

25 MR. SHANKER: It doesn't matter as long as they

1 are able to show that there was an agreement to the essential
2 nature of a criminal plan. And that is what would allow the
3 statements in under 801(d)(2)(E). They need to show by a
4 preponderance of the evidence that there is a criminal
5 conspiracy here.

6 And what is so disturbing about this case is it
7 has been a trial -- we've heard a monologue from David Stone,
8 Sr. with occasional chirping from other Defendants, some of it
9 offensive, some of it not.

10 Our client, David Stone, Jr. doesn't say
11 anything that would indicate he is joining anything criminal
12 at all. And, you know, he -- there's no evidence at all to
13 support guilt for David Stone, Jr., but I think --

14 THE COURT: Do you --

15 MR. SHANKER: But I think there's a problem with
16 all of the Defendants, though, frankly.

17 THE COURT: Let me ask you this. Do you
18 agree -- well, he has said at the beginning of his
19 presentation that the language in the indictment, that Hutaree
20 believed and intended that such an engagement would be a
21 catalyst for a more widespread uprising against the
22 Government, really didn't need to be part of this indictment,
23 and that if it wasn't there, we would be here today in this
24 same position.

25 Do you agree with that?

1 MR. SHANKER: I would disagree with that,
2 because, first of all, they took the time to put that in the
3 indictment to establish a seditious conspiracy charge. And,
4 really, that's the whole issue here; I mean, did they agree to
5 oppose by force the authority of the United States Government.
6 And that's the Government acting as the United States,
7 exercising their authority.

8 And so they -- their -- this is their
9 indictment. They knew when they put that in it was a
10 necessary component. Everything that's outlined in there is a
11 necessary component.

12 And the reason why we've been focusing on this
13 whole plan with killing a police officer and attacking a
14 funeral and then defending against the authority, the federal
15 government, is that is what the Government has charged.
16 They've made these charges. They've defended these charges
17 for two years, and we have vigorously opposed the indictment.

18 I understand why we are here right now. That's
19 not an issue. But they need to live with their indictment,
20 with the words and the language, that they chose to charge all
21 of these people with seditious conspiracy. Very serious
22 charges.

23 THE COURT: So, how Mr. Light has limited it --
24 And you'll have a chance to respond to that,
25 Mr. Light, if I've chosen the wrong word.

1 But he says that the conspiracy that makes it
2 seditious conspiracy is to kill law enforcement, spark this
3 funeral, federal law enforcement would attend, and the
4 procession, the funeral procession would be attacked.

5 MR. SHANKER: And --

6 THE COURT: Do you believe that that -- if there
7 was evidence to support it, that that is seditious conspiracy?

8 MR. SHANKER: I don't think it is.

9 Under Baldwin v. Franks, you still have got to
10 get to the point that the federal government is acting as the
11 federal government and exercising their authority. At that
12 point there would be no exercise of federal authority --

13 THE COURT: Well, if they were attacked, if the
14 funeral procession was attacked --

15 MR. SHANKER: Right.

16 THE COURT: Then -- by members of the Hutaree,
17 then the federal law enforcement people would respond to that.

18 MR. SHANKER: I think it's key -- the response
19 is a crucial aspect of that. That they would be defending at
20 the rally point. I think that's a key aspect of this that
21 makes it an allegation of seditious conspiracy.

22 I also think that there's a problem, you know,
23 with who would be at the funeral of something like this.

24 THE COURT: Well, that's -- that Mr. Stone
25 thought that something like this could attract federal law

1 enforcement from all over the country, it doesn't matter if it
2 would never have materialized, does it?

3 MR. SHANKER: Well, I'm not sure if that's even
4 the word to use.

5 I think he says officers from states all over
6 the country, is what I thought he said -- I could be wrong --
7 at least on February 20th.

8 But the crucial aspect here is that nobody ever
9 agrees. And the fact that they didn't disagree cannot be
10 enough in this country to say that somebody has joined a
11 seditious conspiracy. And I think that's a big problem.

12 And, Your Honor, I would like to address this
13 discussion about convoys, because that was something new.

14 Mr. Light is saying that when convoys are
15 mentioned, this is in reference to the federal government in
16 some way or another. However, we have evidence on this
17 record -- it's 1D39, Exhibit E, and it is on August 27th --

18 THE COURT: I'm sorry. Start again. It is
19 what?

20 MR. SHANKER: Recording 1D39.

21 THE COURT: Yes.

22 MR. SHANKER: It was Exhibit E. I'm not sure
23 what the number was there, but it is from August 27, 2009 --

24 THE COURT: So, it's 39 E, the exhibit number?

25 MR. SHANKER: I'm not sure what the number is.

1 That is the recording number, 1D39 --

2 MR. SWOR: It's Exhibit 24.

3 MR. SHANKER: 24.

4 MR. SWOR: It is Exhibit 24, on the 27th --

5 THE COURT: Okay. August 27, '09.

6 MR. SHANKER: In this recording there is
7 evidence -- there is discussion about how the local sheriffs
8 have an APC.

9 So, you know, just because somebody is talking
10 about convoys and that somebody -- we know who that is; it's
11 David Stone, Sr. -- it doesn't mean that it involves federal
12 authorities. There's a specific reference to the local
13 sheriff's APC.

14 So, there are a number of fundamental problems
15 with the Government's case, and that's just another one.

16 And, Your Honor, I really -- there is no
17 evidence -- I don't know if David Stone, Jr. even came up
18 until they talked about February 20th.

19 THE COURT: You mean today?

20 MR. SHANKER: Today.

21 THE COURT: He did not.

22 MR. SHANKER: And once he came up there, it was
23 mentioned that he did leave early that day.

24 The best that we can say from the record that we
25 have is that he either left before the discussion about

1 harming police officers or he left during the discussion. And
2 I don't see in any way how that could show agreement to what
3 is going on.

4 And I say that not trying to say that just being
5 present and participating in that conversation is evidence of
6 guilt at all, because we heard that tape played. People are
7 laughing. People are using conditional language, when, if,
8 should, when this happens. David Stone, Sr. himself uses
9 conditional language and sums the whole thing up by saying
10 there's a hundred and one scenarios we could use. Could use.

11 Your Honor, this case, the charges should be
12 dismissed against David Stone, Jr. And I would say that there
13 is no evidence that there is any agreement to any criminal
14 act.

15 What we have is something that comes up
16 repeatedly from one person, and that's it. And what these
17 other people are doing is expressing opinions. And I think
18 even what David Stone, Sr. is doing when he brings these items
19 up is he trying to advocate.

20 This isn't a conspiracy. This really, really
21 was and is a First Amendment case. And I think that the
22 charges should be dismissed, other than the firearms charges
23 regarding automatic weapons and short-barreled weapons.

24 THE COURT: Your client is charged with teaching
25 and demonstrating too, isn't he?

1 MR. SHANKER: Yes, he is, Your Honor.

2 And that charge relies on one of the two
3 conspiracies, both of which we think the Government has failed
4 miserably to establish even in the light most favorable to the
5 Government.

6 THE COURT: Well, it doesn't -- does it rely
7 upon the conspiracies?

8 MR. SHANKER: It relies upon a conspiracy to
9 commit a crime of violence. It relies on -- it is a predicate
10 to that charge, I do believe, to wit: The seditious
11 conspiracy and/or the conspiracy to use a weapon of mass
12 destruction.

13 MR. SWOR: No, no. Seditious.

14 MR. SHANKER: Oh, was it just seditious
15 conspiracy?

16 MR. LIGHT: It is actually both.

17 THE COURT: I'm sorry. Mr. Light?

18 MR. LIGHT: There is a predicate for Count 3.

19 THE COURT: Okay.

20 MR. LIGHT: And the predicate is either the
21 seditious conspiracy in Count 1 or the conspiracy to use
22 weapons of mass destruction in Count 2.

23 THE COURT: So, does that mean that David Stone,
24 Jr. must have been teaching or demonstrating to someone who is
25 going to be held into Count 1 or Count 2?

1 MR. LIGHT: Yes, Your Honor.

2 THE COURT: And who was he
3 teaching/demonstrating to?

4 MR. LIGHT: All of the members who were present
5 on the 13th. And I can -- the list is in my brief or I could
6 give it to the Court when I stand up again.

7 THE COURT: Okay.

8 MR. SHANKER: And, Your Honor, as far as the
9 actual teaching and demonstrating, I think we heard a very
10 concise telling cross-examination by Mr. Helfrick of Agent
11 Haug.

12 David Junior didn't teach anything. He put
13 metal to a battery at the direction of his dad and he set off
14 cardboard tubes with some form of black powder or flash
15 powder.

16 They are not being charged for those devices.
17 Those devices are not weapons of mass destruction. And he
18 didn't teach anything to anybody. That's all he did.

19 THE COURT: Okay. May I just ask Mr. --

20 Mr. Light, could you respond to that? What he's
21 teaching and demonstrating, is that true that they are not
22 weapons of mass destruction?

23 MR. LIGHT: No, that's not true.

24 The agent testified that they were IEDs and they
25 were identifiable as IEDs.

1 If one looks at the definition of a weapon of
2 mass destruction, a weapon of mass destruction is defined as
3 including any destructive device. A destructive device is
4 defined as including any explosive bomb. And based on the
5 testimony of the agent, the explosives that were used on the
6 13th were explosive bombs.

7 We also know from the meeting between Daniel
8 Murray and David Stone the week before on June 6th, 2009 about
9 the way in which those bombs were made. And the cardboard
10 tubes with which they are made, the ingredients that go into
11 them, the wadding that goes into them, the end caps and the
12 fusing are all discussed at the conclusion of the recording
13 from June 16th, including words from David Stone to the effect
14 of, I think, "Holy shit these things go off."

15 THE COURT: David Stone, Sr.

16 MR. LIGHT: Senior.

17 THE COURT: Mm-hmm.

18 MR. LIGHT: But there's specific reference.
19 These are the bombs -- or, these are the explosives that are
20 going to be used in our training next week.

21 So, I believe the evidence is clear that those
22 were destructive devices, they were weapons of mass
23 destruction.

24 And under the definition in the statute and, at
25 the very least, David Stone, Sr. and David Stone, Jr.

1 demonstrated how they were placed, how they were wired, how
2 they were set up for detonation and how to detonate them. Not
3 only did David Stone, Jr. place -- or, make the electrical
4 connections that set off the charges, but he later on
5 discusses with others in the group how they were set out
6 there, what his role was in putting them out there and in fact
7 how they were covered to protect them from getting wet
8 overnight because apparently they had been placed the day
9 before.

10 THE COURT: All right. Thank you.

11 MR. SHANKER: Your Honor, these were weapons of
12 mass destruction. Mr. Light refers to this as a destructive
13 device. And the weapons of mass destruction statute refers to
14 Section 921 -- that is, 18 USC 921, and that would be Section
15 (a) (4). And in that section it says:

16 "The term 'destructive device' shall not
17 include any device which is neither designed
18 nor redesigned for use as a weapon."

19 This was a training about trip wire avoidance.
20 These devices had -- there was no shrapnel in them at all.

21 We don't -- the Government hasn't even
22 established exactly what they were, but they were definitely
23 not being used as a weapon. They are stretching one again in
24 front of this Court.

25 And I also wanted to point out that at this June

1 training there is no conspiracy. We aren't even to the point
2 that David Stone, Sr. has even articulated the so-called plot
3 charged in the indictment. It's not until a month later --
4 two months later that he utters this to Steve Haug.

5 So, once again, Your Honor, I respectfully
6 request that the charges be dismissed against David Stone, Jr.

7 And I thank this Court for hearing me today.

8 And if you have any other questions, I can answer them.

9 THE COURT: I do, Mr. Shanker. One other one
10 before you sit down. It just has to do with how you started
11 off and the seditious conspiracy statute and the attack on a
12 funeral procession.

13 You said that if they were merely attacking a
14 funeral procession that included federal law enforcement, that
15 that's not the kind of force that the seditious conspiracy
16 statute contemplates?

17 MR. SHANKER: Well, according to Baldwin, which
18 I have cited in the Rule 29 motion, there has to be an
19 exercise of authority by the Government. And that's what I'm
20 referring to there.

21 THE COURT: Okay. So, if there was this funeral
22 procession and the members of the Hutaree did attack, and law
23 enforcement then responded, wouldn't that be -- and the
24 Hutaree continued to attack?

25 MR. SHANKER: I think if you got to that point,

1 that would be the exercise of authority. If the use of force
2 was against that exercise of authority, you would be there.

3 But the problem is, you know, we are nowhere
4 near that here as far as what's agreed to. And that's the
5 real problem here.

6 And the reason why I said that response, it's
7 important, is because you asked me about the language they
8 included and whether it was superfluous. And I don't think it
9 was. I think it's essential to the charge.

10 THE COURT: Mm-hmm. Okay.

11 MR. SHANKER: Thank you, Judge.

12 THE COURT: Thank you.

13 Who is next?

14 Anyone else want to speak?

15 MR. SWOR: Your Honor, the Defendants would
16 request to take a break, personally. It sounds like --

17 THE COURT: And professionally?

18 MR. SWOR: No. The Defendants.

19 THE COURT: Oh. The Defendants want to take a
20 break?

21 MR. SWOR: Yes.

22 THE COURT: Okay. Fine. We can do that.

23 *(Recess held from 11:32 a.m. until 11:52 a.m.)*

24 THE COURT: Thank you.

25 Mr. Thomas, before you present, can I ask

1 Mr. Shanker another question?

2 And I have a question for Mr. Light.

3 MR. THOMAS: Yes. We were going to clarify
4 something.

5 THE COURT: What do you intend to clarify?

6 MR. THOMAS: Well, I wanted to clarify about
7 weapons of mass destruction.

8 THE COURT: Okay. That's not what I want to
9 ask.

10 MR. THOMAS: Okay.

11 THE COURT: Okay. Thank you.

12 So, Mr. Shanker, you said that Defendants had
13 good legal reasons for doing what they did.

14 MR. SHANKER: Yes.

15 THE COURT: Wouldn't that go to the weight
16 rather than the admissibility of evidence?

17 MR. SHANKER: Well, I think the problem is, is
18 that there's a burden, a minimal burden that the Government
19 needs to meet to show that there is an agreement to a
20 conspiracy.

21 And I'm just pointing out that when somebody is
22 in the presence of David Stone, Sr. and he makes an offensive
23 comment and they don't disagree -- there's a reason even
24 beyond the fact that they don't have to disagree, there's a
25 reason why -- there's other reasons why they're there.

1 They are not -- I can't recall any of the
2 training being specific to attacking a police officer and
3 attacking a funeral. They are preparing for the Apocalypse,
4 or some, and some are preparing to defend their families. And
5 there's all kinds of reasons to joining an organization.

6 THE COURT: The Government says they are
7 preparing for a war.

8 MR. SHANKER: The Government says that, but that
9 isn't what they trained for. And if there was a war, then
10 they trained to act defensively.

11 And one of the exhibits that the Government put
12 in was a color-coded set of conditions for war that was seized
13 from David Stone, Sr.'s house. And it says when it gets to
14 condition black and war is actually in effect, it says
15 "defensive use of force authorized."

16 And I thought that was a pretty stunning piece
17 of evidence coming from the Government.

18 So, again, that's in a war situation.

19 So, that was my only point with that, Your
20 Honor.

21 THE COURT: All right. Thank you.

22 MR. SHANKER: Thank you, Judge.

23 THE COURT: Mr. Light, with respect to this
24 Count 3.

25 MR. LIGHT: Yes.

1 THE COURT: The Defendants make the point that
2 this was June 13th that this teaching and demonstration
3 allegedly occurred, and the earliest date that you've given
4 the Court -- although the indictment says August of 2008. The
5 earliest date you've given the Court for involvement of any of
6 these Defendants is August 13, 2009.

Does that do anything to your Count 3?

8 MR. LIGHT: No, it doesn't, Your Honor, for this
9 reason.

15 But two things about that. One is that
16 discussions of other ways of provoking a response from law
17 enforcement, including federal law enforcement, go back before
18 June 13th.

19 THE COURT: That involve some of the Defendants
20 who were training on June 13th?

21 MR. LIGHT: Yes, Your Honor.

22 THE COURT: Who?

23 MR. LIGHT: I would have to specify that,
24 because I would want to go back and look at the prior
25 conversations and specify who had those conversations.

1 most, if not all, of the Defendants were present for the June
2 13th training.

3 THE COURT: And were they just conversations or
4 was it something more than conversations that any of these
5 Defendants had before August 13, 2009?

6 MR. LIGHT: I think there were conversations
7 from which one could infer a general agreement that part of
8 the mission of the Hutaree is to provoke a response and
9 provoke a conflict, the war that would then ensue in which the
10 Hutaree would go to their rally points and take action.

11 Now, the other point I wanted to make though is
12 even if we just use August 13th as the focal point or
13 consummation of the agreement specifically relating to a law
14 enforcement officer and relating to attacking the funeral of
15 that law enforcement officer, there are prior actions and
16 agreements that are part of that conspiracy that are
17 preparatory for that conspiracy going back into 2008, which
18 are the -- and they are detailed in the indictment.

19 They are the training sessions devoted to being
20 prepared to take defensive and offensive action in the various
21 ways that are described in the indictment. They're the
22 obtaining and assembling of gear, including firearms,
23 ammunition, medical supplies and other things. Those are all
24 parts of the conspiracy as well.

25 And while they may have occurred before that

1 point in time when the conspiracy focused on the one aspect --
2 that is, the attacking an individual and then attacking the
3 convoy that would attend his funeral -- that doesn't mean that
4 those other actions prior to that are not part of and parcel
5 of the conspiracy.

6 The conspiracy doesn't have to be complete as of
7 the time that part of the training for the conspiracy takes
8 place.

9 And I would say that the training and
10 demonstration of the use of certain kinds of IEDs or
11 explosives on June 13th can be part of the conspiracy that
12 then is the focus of the discussions on August 13th and then
13 subsequently in February of 2010.

14 THE COURT: So, anything that predated the
15 training of June 13, 2009 -- let me rephrase.

16 You said that prior to August 13th -- oh, prior
17 to June 13, 2009, Defendants were training, getting weapons,
18 doing a lot of things that were legal in and of themselves.

19 MR. LIGHT: Correct.

20 THE COURT: Correct? And --

21 MR. LIGHT: Some of which were illegal,
22 involving illegal weapons, of course.

23 THE COURT: Okay. But you're saying also that
24 there was or there was not a discussion to draw in the federal
25 government into some conflict prior to June 13, 2009?

1 MR. LIGHT: I believe there were discussions
2 about drawing the federal government into conflict. And one
3 specific discussion is the discussion that takes place in
4 December of 2008 reflected in some e-mails and then subsequent
5 telephone calls and a subsequent discussion at the Tomer Road
6 residence about the intent to respond to what the Hutaree saw
7 as a provocative action by ATF when ATF conducted an
8 inspection of Walter Priest's federal firearms license
9 facility, which the Hutaree described as their firearms
10 dealer.

11 And so there we directly have an element of the
12 federal government involved and statements by David Stone to
13 other members of the conspiracy of an intent to oppose by
14 force the ATF if they continue in that kind of provocation.

15 THE COURT: Okay.

16 MR. LIGHT: Thank you.

17 MR. SCHARG: Can I just correct the record for
18 one moment?

19 THE COURT: Sure.

20 MR. SCHARG: Mr. Light spoke about participants.
21 The record will reflect that Mr. Sickles was
22 present September 27 of 2008 for that training session and was
23 not seen again and participated in any activity until August
24 22nd of 2009, almost a period of one year. So, he was not
25 present at any of those events that Mr. Light alluded to.

1 THE COURT: Okay. Thank you.

2 MR. THOMAS: Judge, I don't mean to step on
3 anybody's toes and I won't, but it originally troubled me
4 about otherwise legal acts and whether or not they could be a
5 predicate for a charge of conspiracy.

6 And I know what the law is. And I certainly --
7 I think I agree with the Court's rationale. That at some
8 point there has to be an agreement to use whatever these
9 otherwise lawful acts were to perpetuate a crime or to commit
10 a crime. And so it was towards that end that -- I've always
11 been looking in this case for the agreement. Not the presence
12 or not -- not maybe -- even not objective, but what was it
13 that went to the very heart of this seditious conspiracy that
14 it is my belief Count 1 and Count 2 require in order for there
15 to be a crime before this jury.

16 And I looked to the indictment. And you had a
17 question about Count 2. And, as you know, Count 2
18 incorporates by reference Count 1 and the allegations which
19 are recited in the Count 1. And it's towards this end that I
20 want to piggyback on Mr. Shanker's argument.

21 That says that they:

22 "Conspired" -- I'm looking on page 11 of
23 the indictment -- "to use, without lawful
24 authority, one or more weapons of mass
25 destruction, specifically explosive bombs,

1 explosive mines, and other similar explosive
2 devices, against persons and property within
3 the United States . . ."

4 And then it goes on to be specific:

5 " . . . that is, local, state, and federal
6 law enforcement officers and vehicles owed
7 and used by local, state, and federal law
8 enforcement."

9 Now, it's my position that the use of the word
10 "and" requires that it be proven in addition; that it not be
11 exclusive. It's not either/or. It is inclusive of federal
12 law enforcement authorities. And I cite the fact that they
13 incorporated by reference the first count which specifically
14 describes the seditious conspiracy.

15 I also want to address the issue relating to
16 what is --

17 THE COURT: Mr. Thomas, may I interrupt you?

18 MR. THOMAS: Yes.

19 THE COURT: You're saying that unless the crime
20 is against all three of those agencies and all three of their
21 vehicles, this crime can't be charged and proven?

22 MR. THOMAS: Well, my argument would be yes.
23 And specifically because of the fact that I -- I didn't draft
24 this indictment. They did. They took it to the Grand Jury.
25 And if I were going to read it literally, it would require --

1 it would require all three. It didn't say "either/or." It
2 said "and."

3 And it requires a seditious conspiracy as it
4 relates to the explosion of those bombs, because the seditious
5 conspiracy count is incorporated by reference. And it's
6 toward the seditious conspiracy that all of these facts are
7 drawn.

8 So, it is not for them to say, well, if they
9 planned to blow up anything with an explosive device that was
10 within the statute, that they can then be convicted, any
11 person, anyplace, any thing. It has to be specific, and it's
12 referred to specifically within the indictment.

13 The training that was referred to in June --

14 THE COURT: Before you leave that, I just have
15 to . . .

16 MR. THOMAS: I hesitated because I thought you
17 might jump in, but . . .

18 THE COURT: I just want to see the statute as
19 you go on.

20 Leslie, would you find that.

21 MR. THOMAS: Do you want me to stop?

22 THE COURT: Just for a moment, if you would.

23 MR. THOMAS: All right.

24 *(Brief pause.)*

25 THE COURT: Mr. Thomas, you are saying

1 regardless of the language of the statute, the Government
2 chose to make this conjunctive rather than disjunctive. And
3 because they chose to do that, they have to prove that the
4 Defendants intended to use these weapons against all of those
5 law enforcement bodies or the count fails? Is that what
6 you're saying?

7 MR. THOMAS: That's correct, Judge.

8 And I would cite the Court to the general
9 allegations that talk about the weapons of mass destruction.
10 And then they talk about it in terms of this organization
11 attempting to oppose by force the United States by actions
12 which include the use of the bomb.

13 THE COURT: Okay. We'll come back to that.

14 MR. THOMAS: All right.

15 Well, corollary to that, we were talking about
16 two instances in this case where there was discussions or
17 there was training. That was June the 6th of '09 and June the
18 13th of '09. Those would be exhibits that have been
19 identified as Exhibit 16 and Exhibit 17.

20 Importantly, in the June 6th conversation -- or,
21 the testimony relating to the June 6th -- that would be the
22 June 6th conversation. David Stone is heard describing what
23 the explosion was, and he referred to it as a cherry bomb.

24 On June the 13th, it was also referred to as an
25 "M-80 something, a cherry bomb." And that's according to the

1 Government's undercover informant.

2 These are clearly not what were contemplated by
3 the statute as weapons of mass destruction. And I refer to
4 the Exhibits, Judge, 16 and 17 for your review.

5 THE COURT: Was there additional testimony on
6 what a, quote, cherry bomb is?

7 MR. THOMAS: Well, I don't think that there was
8 anything more than that.

9 If I were to use the Government's analogy on
10 inferences, I could infer that it certainly wasn't a
11 destructive device of any great magnitude, because there was
12 no evidence of it that was determined to have been found as a
13 result of the search of the premises. But I think that that
14 would be a stretch, as I think that the Government's
15 inferences that they are requesting you to take are a stretch.

16 THE COURT: All right.

17 MR. THOMAS: But certainly there was no
18 quantification of the explosive potential except for, you
19 know, its comparison to gunfire and that it may have been --
20 at one point it was suggested that it was not as loud as or as
21 loud as the gunfire and then that it was a little more louder
22 than the gunfire. But there's no specific proof as to what a
23 cherry bomb is, but I think that --

24 THE COURT: Are you saying that that's the
25 extent of David Stone, Jr.'s participation in discussion about

1 these alleged weapons of mass destruction?

2 MR. THOMAS: No, I'm not talking about -- no.

3 I'm just -- no. David Stone, Jr.'s?

4 THE COURT: That's what I said. That's what I
5 intended to say.

6 MR. THOMAS: Yes.

7 THE COURT: That's the extent of David Stone,
8 Jr.'s participation?

9 MR. THOMAS: Yes, that's what I'm saying.

10 THE COURT: All right.

11 MR. THOMAS: And I recognize that I'm stepping
12 on Mr. Shanker's toes.

13 THE COURT: All right.

14 MR. THOMAS: I think the main thrust of my
15 argument, if the Court will remember, is that towards the end
16 of acknowledging what actually is conspired to here and the
17 fact that there is no specific target, there is no specific
18 date, there is no specific plan, David Stone engaged in a lot
19 of language in this case. When it really came to the point of
20 deciding what it was he was going to do, very poignantly he
21 was asked by the undercover enforcement officer at the
22 warehouse, you know, now that you've got it, what are you
23 going to do with it, you know. Do you have any plans? No.
24 Do you have any specific target? No.

25 And that, I'm sure Mr. Swor is going to get to.

1 But when I was cross-examining witnesses regarding what
2 appeared to be Mr. Stone's main issue -- that is, the
3 Brotherhood -- there were several different varying
4 definitions of what the Brotherhood was.

5 And what I did is I pulled places in the
6 transcript or in the exhibits that have been presented to this
7 Court, the actual language about the Brotherhood. And it's my
8 position that if the Brotherhood includes cops or includes
9 anything but federal authority, that Congress was very, very
10 specific in what it was that was necessary for a seditious
11 conspiracy, and cops is not enough.

12 In Haywood v. United States, 268 F2d 795 -- it's
13 a 1920 decision -- this was a seditious conspiracy relating to
14 the execution of the laws of the United States that were
15 related to a strike action that was taking place during a
16 period of great tribulation in the United States.

17 The language there that I latched onto is that:

18 "The Defendants thereby may have
19 violated local laws. With that, we have
20 nothing to do. Federal crimes exist only by
21 virtue of federal statutes, and the lawmakers
22 owe the duty to the citizens and subjects of
23 making it unmistakably clear those acts for
24 the commission of which the citizen or the
25 subject may lose his life or liberty. In

1 that case, its *prima facia* meaning condemns
2 force only when a conspiracy exists, to use
3 it against some person who has the authority
4 to execute and who is engaged in executing a
5 law of the United States."

6 I didn't think that "Brotherhood" came under
7 that definition when we heard about it in the case.

8 Specifically, on June the 26th, 2009, Mr. David
9 Stone talks about cops as a Brotherhood and that they -- and
10 in no way does he indicate any federal implication. He's
11 staying in Michigan.

12 "If you kill a cop, they pack and buddy from
13 every state of the country. And they're, 'Ah, yeah, we're a
14 brotherhood. We've got to find 'em and kill 'em.'"

15 This is not a federal reaction to the killing of
16 cops on June 26th of 2009. This is a specific conversation
17 relating to cops against a symbol. What I will be arguing to
18 a jury, if I have to argue to a jury, a symbol.

19 There's no such thing as the Brotherhood of
20 Cops. It's in his imagination. It's a focal point for him.
21 It's something that has no -- it's not reality based.

22 THE COURT: Well, Mr. Thomas, whether he called
23 it the Brotherhood or he never put a name on it at all, his
24 speech makes clear that he does not hold federal officials in
25 high regard or the federal government in high regard. And I

1 think that's an understatement.

2 MR. THOMAS: Well ...

3 THE COURT: And the Baldwin v. Franks case talks
4 about how that conspiracy could not be maintained because the
5 force that was exerted was against Chinese citizens rather
6 than against the government in its efforts to protect those
7 citizens. So, clearly in the Baldwin case I think the court
8 contemplated that if there had been action taken against
9 people in the government who are to protect its citizens, then
10 that would be sufficient to maintain a seditious conspiracy
11 charge.

12 MR. THOMAS: In order for there to be a
13 conspiracy, besides the agreement, we go to the very essence
14 of what it is that is agreed. You have to know.

15 THE COURT: Well, that's different. But I guess
16 I disagree with you that federal law enforcement cannot -- or,
17 federal cops cannot be the government as contemplated by the
18 seditious conspiracy statute. I believe that they are, that
19 it is.

20 MR. THOMAS: Well, I think you're correct on
21 that if it was that he knew that federal action would take
22 place in the event that he was going to provoke some sort of
23 response, number one; and, number two, if it was agreed by
24 Joshua Stone.

25 And so it's towards that end that I wanted to

1 talk to you about Brotherhood and I wanted to go through the
2 four or five conversations that that's mentioned, because I
3 don't think that it contemplates in many instances knowledge
4 and, secondly, Joshua Stone's agreement that he would oppose
5 the Brotherhood if it consisted of the federal government.

6 THE COURT: Okay.

7 MR. THOMAS: So, I think that we are on -- I
8 think we are on the same track, and I understand your
9 question. But we don't necessarily disagree with your
10 analysis that if, in fact, it did include the federal
11 government by way of a reaction in any way, whether it be
12 federal police or federal agents.

13 THE COURT: And you are saying that there isn't
14 any evidence that suggests David Stone intended to include
15 federal law enforcement when he discussed the Brotherhood?

16 MR. THOMAS: I'm going to go through those
17 piece-by-piece with you. But I think that David Stone, when
18 really queried as to what was intentioned -- he was a
19 gentleman that would take people to the brink.

20 We were talking about a December conversation
21 where there was a red alert about a potential ATF action that
22 was taken. It was only within two hours that he reports
23 "stand down."

24 And I think what we've seen in this case is a
25 history of Mr. Stone suggesting something and then finding

1 himself a back door and then backing off.

2 "Alert, alert, alert, somebody is getting a
3 traffic ticket" or a discussion about what he would do in the
4 event that he did get a traffic ticket in a supposed stop that
5 occurred where he actually confronted the officer, and at the
6 time he was driving with a suspended license, and then nothing
7 happened.

8 When he's at the warehouse talking with the
9 undercover officer, Special Agent Haug, about what it is that
10 he's going to do with these IEDs that are being brought into
11 the equation by the Government, he doesn't have any specific
12 thing that he wants to do. And when he's queried specifically
13 about using it against the Government, he says no.

14 On August the 13th of 2009, a conversation takes
15 place between Special Agent Haug, and Joshua Stone is present.
16 They have a general discussion about the militia and that --
17 and they talk about 50 armies in 50 states to hold the
18 country, and it's called the militia. The years, with people
19 from 17 to 45 are supposed to be in the militia, and if
20 there's a problem, let's go, boys.

21 Now, Stone is quoted as saying: "Instead we've
22 replaced it with the Brotherhood."

23 The undercover enforcement officer says:

24 "Mm-hmm."

25 "And a few federal officers and a standing

1 Army."

2 My client Joshua Stone chimes in: "Always
3 overseas fighting."

4 The undercover enforcement officer says: "Not
5 here anyway."

6 Stone then clarifies. He says: "But the
7 Brotherhood is our problem. Once we take those guys down, the
8 rest of it will come."

9 Now, the undercover enforcement officer says:
10 "That's a big Army across the country though" -- talking about
11 the Brotherhood -- "650,000. That's what they say their
12 numbers are."

13 Mr. Stone says: "650,000 strong in the
14 Brotherhood. And when everybody starts shooting, your numbers
15 are going to fall real fast to 150,000."

16 This is not a specific discussion about the
17 United States Government. To the extent that there is any
18 discussion regarding military, they are absent and overseas.

19 And Joshua Stone says: "They are not" -- agrees
20 with -- I'm sorry. David Stone agrees with the fact that they
21 are not here anyway.

22 Further on, they talk about the gang. And they
23 are the gang called Brotherhood. That gang theory comes up in
24 other conversations.

25 On September the 13th, David Stone and -- it

1 looks like Mr. Murray -- in a long paragraph talks about -- on
2 page 58: "Start doing that, and you're going to have a whole
3 bunch of cops that are going to do this number with their
4 badges. And my family ain't dyin' for this today."

5 I'm sorry, Judge, I'm misquoting. This is David
6 Stone saying this. I will start again.

7 "You start doing that, you are going to have a
8 whole bunch of cops who are going to do this number with their
9 badges. My family ain't dyin' for this today. And all of a
10 sudden they are no longer fighting."

11 This is further discussions as it relates to the
12 Brotherhood.

13 "Well, I heard it put one time that the cops are
14 the best organized street gang in the" --

15 And then it is interrupted by David Stone: "And
16 it's called the Brotherhood."

17 The informant, Mr. Murray says: "Yeah, but they
18 are the biggest and best organized street gang in the --"

19 And David Stone says: "Exactly."

20 Mr. Murray continues: "-- country."

21 David Stone says: "And that's what we're going
22 to take on first. You take on the Brotherhood and you start
23 popping those boys, you're going to see the Brotherhood's
24 numbers start to dwindle like any gang."

25 And then continues on, without any discussion

1 about what would happen next, who would be involved, and
2 certainly nothing relating to either the United States
3 military, the United States Government in any way, that there
4 is a conspiracy that exists to use it against a person who has
5 the authority to use it or to execute it and who is
6 immediately engaged in executing the laws of the United
7 States.

8 THE COURT: Mr. Thomas, Mr. Light pointed out
9 there was some discussion in which David Stone said the two,
10 the state and federal law enforcement, couldn't be separated;
11 that they were intertwined.

12 MR. THOMAS: All right. And then the question
13 is if David Stone says that, who was present and where is it
14 that Joshua Stone said, yep, I agree?

15 THE COURT: I don't think that was a
16 conversation in which it was pointed out that Joshua Stone was
17 present.

18 MR. THOMAS: Well -- and that points out the
19 importance of individual consideration as it relates to this
20 conspiracy.

21 Where is it that it was said that Joshua Stone
22 agreed?

23 And we certainly can say that by the actions
24 that occurred in March, he did something. But was it against
25 the United States?

1 On October the 6th, Joshua says -- this is the
2 only -- this is I think the only time that Joshua ever talks
3 about military. And it's in the presence of David Stone,
4 Shannon Stone and Special Agent Haug. And that was that
5 Joshua Stone did not see going against the military. In fact,
6 he suggests that when this confrontation arises -- not clear
7 whether it is because of the fact that it was some provocation
8 on the part of David Stone, but it could be Satan versus
9 Christianity, it could have been good versus evil. It could
10 have been any of the other descriptions which were being taken
11 as to how it was that war would exist. That, quote-unquote,
12 war that --

13 In my cross-examination I tried to bring out the
14 fact that it may have been figurative, it may have been
15 fictional, it may have been a state of mind. But in any event
16 Joshua Stone says: "I mean, I don't see all of the military
17 going, you know, totally against us. They are going to have a
18 hard time killing their own people, especially when they have
19 their foreign commanders giving them orders."

20 Joshua Stone didn't contemplate that he would be
21 fighting against the military.

22 In the February 6th conversation I think what
23 Mr. Light had failed to point out is that on page 50 of that
24 conversation, that the state police are considered to be
25 Interpole; that you're not talking about the federal

1 government. You're talking about the global government.

2 The wonders of technology, Judge.

3 David Stone says the undercover --

4 The undercover officer, Special Agent Haug:

5 "But what if we hit the feds. first really hard and then maybe
6 disrupt them until then --"

7 David Stone interrupts and says: "Well . . ."

8 And then the undercover enforcement officer
9 Special Agent Haug says: "They have a state -- maybe state
10 will try to break away then. See anything like that or not?"

11 David Stone says: "No. Because the state
12 police are Interpole. They are not even -- I mean whenever
13 you're talking to the feds., you are not even really talking
14 about our federal government institutions. You're talking
15 about the global government."

16 Haug says: "Right."

17 And then Stone says: "Every state, every cop is
18 a member of Interpole. A lot of the -- even the little
19 township cops are now too."

20 Haug says: "Yeah."

21 Stone says: "Countries -- some countries are
22 holdouts, but for the most part --"

23 And then Haug intercedes and says: "Let's hear
24 it from them."

25 Even David Stone, when queried about whether or

1 not he's talking about our federal government, says no, it's
2 not our federal government, on February the 6th.

3 Additional language hyperbole. I mean, Joshua
4 Stone talking on February 6th about bringing dancers as a
5 decoy cannot have been evidence of any formed intent on his
6 part.

7 And, in any event, the little shiny badges that
8 are referred to and the Brotherhood being a gang does not have
9 any implication of federal involvement that is required.

10 And then on February 20th, again, David Stone is
11 talking about the Brotherhood being out of control in that
12 conversation. He doesn't say they are the military. He says
13 they look like the military. He distinguishes them from
14 anything that arguably could be considered as federal
15 government. And then he goes on to talk further about magical
16 Blue Helmets.

17 And I think that there is a paucity of evidence
18 of any intent to engage in any action against anyone who is
19 engaged in the execution of the laws of the United States.
20 And so as a result, Judge, as it relates to this seditious
21 conspiracy count, I'm asking you to dismiss the charges.

22 THE COURT: Thank you.

23 Can I just before you go, Mr. Rataj --

24 Mr. Light, could you respond to Mr. Thomas's
25 argument concerning Count 2 and the manner in which the

1 Government chose to charge?

2 MR. LIGHT: Do you mean the conjunctive versus
3 disjunctive question?

4 THE COURT: I do.

5 MR. LIGHT: Well, there's black letter law on
6 that, Your Honor, to the effect that when a statute specifies
7 alternative means in which to commit an offense in the
8 disjunctive, it's appropriate for the Government to charge
9 those alternative means in the conjunctive, but when the case
10 goes to the jury or when it's decided on Rule 29, it's based
11 on whether the Government has proved any one of those prongs
12 that are alleged in the conjunctive.

13 THE COURT: So, you're saying if the seditious
14 conspiracy charge didn't go to the jury, but Count 2 did, it
15 would go to the jury as using weapons against local ...

16 MR. LIGHT: It would go to the jury on the
17 theory of using weapons of mass destruction, destructive
18 devices or explosives, even though those are alleged in the
19 conjunctive in the statute, against federal, state or local
20 law enforcement vehicles or persons because --

21 And I believe the Sixth Circuit case on this, or
22 one of them, is a case called United States v. Hathaway. And
23 I don't have the cite at hand. But basically the proposition
24 is that the Government is allowed to prove in the disjunctive
25 if it alleges violations or alternative violations of the

1 statute in the conjunctive.

2 As long as the statute itself is in the
3 disjunctive, alleging it in the conjunctive just satisfies the
4 proposition that a Grand Jury has passed on that charge and
5 has said that each one of the means under the statute is a
6 basis on which the Defendant can be tried. But once it goes
7 to trial, any one of them is sufficient to establish a
8 violation of the statute.

9 THE COURT: All right. Thank you.

10 MR. LIGHT: Thank you.

11 THE COURT: Mr. Rataj, did I see you rise?

12 MR. RATAJ: Thank you, Your Honor.

13 I will be relatively brief, Your Honor.

14 Your Honor, us you know, I have filed a joint or
15 concurrence with David Stone, Jr.'s brief, and I adopt the
16 arguments that are set forth in those papers.

17 I have also submitted my brief, as you know, and
18 I'm not going to repeat all of the arguments that I've set
19 forth in my papers as well. But I'm confident the Court has
20 read them.

21 Your Honor, it's almost unbelievable to speak
22 what I've heard here this morning, because what we've heard
23 now is Mr. Light trying to distance himself from his own
24 indictment by arguing something different; that what we have
25 all prepared to defend against for two years. And that is,

1 that these Defendants have conspired to kill a police officer
2 and then blow up the funeral procession.

3 And as we know, after we've heard testimony from
4 all of these Government witnesses, there's never been a plan,
5 there's never been a target, there's never been any kind of an
6 agreement to do that. And so the case should fall on its face
7 like it should have two years ago.

8 And the irony in this case, Your Honor, is that
9 the only person that committed any act of violence was the
10 Government's own confidential informant, Mr. Murray, who shot
11 a 9 millimeter at his wife and then stabbed her.

12 THE COURT: Well, Mr. Rataj, I think the
13 Government's position is that the crime is the agreement and
14 that there doesn't necessarily have to have -- necessarily
15 have to have been a definite plan, a specific time --

16 MR. RATAJ: Agreement to do what, Your Honor? I
17 mean, this is the --

18 THE COURT: They're saying that the agreement is
19 to do what you just outlined: Kill a member of law
20 enforcement and somehow spark the involvement of federal
21 officials after that killing has occurred, and then there
22 would be an attack on those federal law enforcement people.

23 It might sound very farfetched, but that's how I
24 understand -- and then one of the ways that the federal law
25 enforcement people might respond would be by participating in

1 a funeral.

2 MR. RATAJ: Okay, fine. Where's the evidence to
3 support that, Your Honor?

4 There hasn't been any evidence over five, six,
5 weeks, seven weeks, however long we've been in this trial, to
6 even support that theory. Okay?

7 But let's look at Tina Stone for a minute, Your
8 Honor -- okay? -- because that's who I am representing here.
9 And as we all know, we are entitled to have the Court look at
10 each Defendant separately as if there were separate trials.

11 We know, Your Honor, that Tina's first
12 involvement with the Hutaree was on August 22 of 2009. That
13 was the only training that she ever attended. And we also
14 know that there were three training sessions after that.

15 November 7, 2009. She wasn't there. Special
16 Agent Haug said that she was baby-sitting her granddaughter.

17 The next one -- the next contact would have been
18 the wedding. And nothing happened at the wedding other than
19 two people got married.

20 The next training would have been I believe it
21 was January 9th of 2010. Tina Stone was unpacking boxes at
22 the Tomer Road residence because they had just moved back
23 there, her and Mr. Stone, from the Bird Lake location.

24 And then the final training session before
25 everybody was arrested was on February 20th of 2010. Tina

1 Stone wasn't there either because she left to attend Shannon
2 Witt's wedding shower.

3 We know that on February 6th, Tina Stone did not
4 make the trip.

5 And we know that on February 20th, when we had
6 these conversations -- which we all know were disjointed,
7 layered, filled with humor and laughter, hyperbole, she wasn't
8 there either.

9 THE COURT: What date is that?

10 MR. RATAJ: February 20th, which is the date
11 that the Government hangs their hat on.

12 Curiously, just for the record, Your Honor --
13 this is how disingenuous the Government has been in this case.
14 They allege in their Second Superseding Indictment, when
15 they've had plenty of time to figure out what evidence they
16 had in this case, they claim that my client participated on
17 the January 9, 2010 training. That is right in the
18 indictment, paragraph 5, in Count 1.

19 She wasn't there. They know that. But they put
20 it in the indictment any ways.

21 Now --

22 THE COURT: Mr. Rataj, what I heard Mr. Light
23 say this morning is that the indictment that he used for when
24 Tina Stone was definitively in the alleged seditious
25 conspiracy agreement was January 14th at the warehouse. And I

1 believe Mr. Light said that her expression of a willingness to
2 get these coffee cans was action on her part. It wasn't just
3 speech, but it was action. And that she had been part of
4 other discussions before then that would signal her
5 endorsement of the agreement.

6 Do you know of anything prior to January 14th,
7 2010 that she was a part of?

8 MR. RATAJ: Nothing, Your Honor. Absolutely
9 nothing.

10 But let's address January 14th and let's look at
11 what Mr. Light has argued, but let's put it in its proper
12 context, because he doesn't do that. All right?

13 January 14th is the first meeting that Senior
14 and Tina have at the warehouse with Jersey Steve. And we hear
15 about Tina -- the only statement that Mr. Stone -- Mr. Light
16 can point to is a statement that Tina said I'm going to buy --
17 does that mean I have to buy more coffee cans. Then she talks
18 about doughnuts. And then she tells Jersey Steve, you need
19 more light bulbs in this place. Okay? That's it.

20 But let's look at that statement in context,
21 because I had cross-examined Special Agent Haug about that
22 day. And those comments have to be looked at in connection
23 with what Jersey Steve had asked Mr. Stone about the,
24 quote-unquote, war. Okay?

25 You know, when is the war going to start? Okay.

1 And what does Mr. Stone say, Your Honor? Mr. Stone says
2 biblically when everything lines up, when the coming of -- we
3 start to see signs of Jesus Christ himself coming down to
4 earth, when we see the antichrist fighting the saints.

5 That's got nothing to do with attacking the
6 United States Government or opposing the United States
7 Government by force, Your Honor. Nothing. Absolutely not one
8 thing.

9 And there's not one statement attributed to Tina
10 Stone where she had agreed to use IEDs, EFPs, homemade
11 mortars, pipe bombs, or whatever else you can think of,
12 against the United States Government. Not one statement in
13 the record. Over seven weeks, six weeks of trial, not one
14 statement.

15 You know, I mean, there's just absolutely no
16 evidence that Tina Stone or any Defendant, for that matter,
17 had agreed, okay, to kill a police officer and blow up the
18 funeral procession and entice the Government into some kind of
19 a fight. There's just no evidence of it. Zero.

20 They pick and choose a statement here and a
21 statement there, and they pile inference upon inference upon
22 inference and upon inference to try to make out a conspiracy.

23 And the case law is very clear on that. You
24 can't make out a conspiracy by piling on inferences. And
25 that's all they've done in this case.

1 There is no case, Judge.

2 This whole thing about the convoy, it is a
3 complete red herring. We didn't hear nothing about that.

4 That's not in the indictment. Nowhere in the indictment.

5 Nowhere in the proofs from that chair right there.

6 THE COURT: Well, there certainly is -- there
7 are audio tapes of references to convoys.

8 What you're saying is that there wasn't any
9 testimony that said the convoys included federal law
10 enforcement?

11 MR. RATAJ: That's correct.

12 THE COURT: And that's your point.

13 MR. RATAJ: Yes, that's one of my points.

14 You know, I mean, if you look at February 6th,
15 okay -- if you look at --

16 First of all, Special Agent Haug had to admit,
17 okay, that the speech that Mr. Stone read in the car is
18 protected by the First Amendment. Okay?

19 And it is. There's nothing in that speech that
20 they could possibly hang their hat on to establish this
21 conspiracy. Nothing.

22 But let's look at what Jersey Steve once again
23 tried to do. Okay? Is he wanted Stone to give him that
24 target. You know, give us a date when we're going to do all
25 this. Okay. Well, what if we hit the feds. and we hit 'em

1 first and we hit 'em hard?

2 And Mr. Thomas just talked about that. Stone's
3 response was, no, okay.

4 We are not talking about the federal government
5 here. We are talking about the global government, whatever
6 the heck that means, you know.

7 I mean, it changed so many -- the target, okay,
8 of who they were going to be at war with changed so many
9 times, okay, we don't know what Mr. Stone was talking about,
10 but he certainly wasn't talking about the United States
11 Government during any of his conversations.

12 And there's certainly no evidence to suggest
13 that Tina Stone agreed and was willing to conspire with these
14 Defendants to oppose by force the Government of the United
15 States of America and use weapons of mass destruction in that
16 process. No evidence whatsoever. And the case has got to go
17 down, Your Honor.

18 I've said enough already, you know. You know
19 what really irritates me about this case, Judge -- and I'll
20 temper my comments. But I mean the arrogance of these people.
21 Okay?

22 You know, prosecutors have an obligation in this
23 country, okay, to do right. And you don't do whatever it
24 takes to get a conviction because you got a two-year
25 investigation where you've only turned up three guns.

1 I mean, you look at Leslie Larsen's February 12,
2 2010 memo, and that says it all, Judge. Okay? We're not
3 going to spend two years and all of the money we spent on this
4 investigation and walk away with three guns.

5 And so what do they do? They come in here and
6 they put on this dog-and-pony show where they pile up guns and
7 ammunition and all of this other military tactical gear, which
8 they all admitted is legal, other than a few guns, to scare
9 the heck out of the jury. Okay?

10 That's -- they've gone to -- they've done
11 everything they possibly could, okay, to try to save face.
12 And that disgusts me, as an American, as somebody who has
13 served his country.

14 Not like Leslie Larsen, who was a clerk and
15 became an FBI agent and now she's got a badge and a gun.
16 Okay. So, she's better than everybody else.

17 I mean, did you see how she talked about my
18 client, Judge? You see how these people talked about my
19 client? Toothless Tina. She's a lesbian. She's a fat ass.

20 My taxpayer dollars are going to pay for that?
21 I don't think so.

22 You are the only person in this entire world
23 that can put a stop to this nonsense. And I'm begging you to
24 do that. Because four of these guys out here are political
25 prisoners. And I said it in my papers.

1 And one of the things that irritated me about
2 this case is to see these guys get chain ganged into this
3 courtroom everyday. For what? For exercising their
4 constitutional rights? For talking smack? For talking things
5 that, you know, some of us might find, you know, a little bit
6 abrasive and offensive and all these other things?

7 And I put it in my papers, Judge.

8 Constitutional truisms. I list them.

9 You can talk about killing cops in this country.
10 There's nothing wrong, there's nothing illegal about it. We
11 might not want to hear about it.

12 I asked Special Agent Haug about Ice T's "Cop
13 Killer." He was familiar with it. Ice T was able to write a
14 song about killing cops, and nobody -- and I didn't see the
15 federal government going out and arresting him.

16 This is protected speech. We might not like it.
17 We might not want to listen to it. But we have the right to
18 turn it off if we want to. We don't have to listen to it. We
19 don't have to agree to it.

20 Do you think I like listening to that idiot Rush
21 Limbaugh on the radio? If I turn him on, I have the right to
22 turn it off. Okay.

23 People have a right to say things in this
24 country, Judge. And that's all these fellas were doing, you
25 know, sitting around a camp fire in their backyard.

1 You know, come on over to my house when I cook
2 barbecue one day. You know, you'll get an earful too. Okay?
3 Believe me. Way worse than what these fellas were saying. I
4 guarantee you, you know.

5 But I don't think that I should be arrested for
6 seditious conspiracy, okay, because I live in the United
7 States of America.

8 I don't see a Chinese flag behind Your Honor. I
9 don't see a flag from North Korea behind Your Honor. I see an
10 American flag, Judge. An American flag.

11 And these people are nothing more than political
12 prisoners. That's all they are. And they are victims, okay,
13 of the arrogance, okay, and these ambitious people that are
14 behind this prosecution, because they are all trying to make a
15 name for themselves.

16 But they fell flat on their face. And so what
17 do they do for the last seven weeks? They come in here and
18 they put on a dog-and-pony show.

19 They withheld evidence from us, I mean,
20 throughout this entire trial. We are getting evidence in the
21 middle of trial, you know.

22 This is the way they play. Okay? Because they
23 want to get a conviction no matter what, because careers are
24 on the line.

25 Well, guess what, Judge. I don't care. Okay?

1 I don't care. As far as I'm concerned, Leslie Larsen should
2 be fired. Fired. She's got no business carrying a badge and
3 a gun.

4 This case needs to be dismissed, Judge, and
5 there's no evidence against my client, okay, as it relates to
6 Counts 1 or 2 or the 924(c)'s, obviously.

7 You know, one training, Judge? One training.
8 Okay. "Do I need to buy more coffee cans?"

9 So what? So what?

10 Where's the evidence that she agreed to use
11 those coffee cans to oppose the Government by force? That's
12 the question. And that's where the evidence is lacking.
13 Because there is none. There is none.

14 These people were just like the show that is on
15 A&E right now or NatGeo. Doomsday Preppers, that is all these
16 people are. They are Doomsday Preppers. They are waiting for
17 the end of time, when the antichrist comes down and the world
18 is in chaos.

19 And, as Mr. Shanker astutely pointed out --
20 unbelievably, we couldn't believe it, the Government was dumb
21 enough to put an exhibit there that says, "Code Black, use of
22 defensive force only." Not offensive force.

23 Thank you, Your Honor.

24 THE COURT: Thank you.

25 Mr. Light, I have a question for you with

1 respect to Tina Stone.

2 MR. LIGHT: Okay.

3 THE COURT: Assume that she did intend to buy
4 more coffee in metal cans that could be used to make IEDs, but
5 that her understanding was that these IEDs were going to be
6 used when the Apocalypse begins.

7 Is she in this conspiracy?

8 MR. LIGHT: It depends upon who they were going
9 to be used against and how that fits in with some idea of the
10 Apocalypse.

11 I didn't hear Tina Stone talking about the
12 Apocalypse in any of the recordings, but --

13 THE COURT: No. But Mr. Rataj points out the
14 context of the conversation in January of 2010 and the
15 response that Mr. Stone gave to the question, when is the war
16 going to start, and he talked -- and he said -- I didn't look
17 it up, but I remember, I think, he did say if and when things
18 line up.

19 What if that was her understanding of how these
20 IEDs were going to be used?

21 MR. LIGHT: Well, if it was also her
22 understanding that they were to be used against a convoy -- I
23 don't think that -- I don't think that the reference to the
24 Apocalypse as being a triggering event for the war excludes or
25 undermines the idea that the specific purpose of the EFPs and

1 IEDs was to use them against a convoy.

2 THE COURT: It may not be with respect to the
3 specific intent of other people, but I'm talking about Tina
4 Stone now.

5 And Mr. Rataj says that there isn't any evidence
6 that she was present when any other discussions were being
7 held about a convoy, about attacking the federal government;
8 and that the most that can be said is that she was present in
9 a discussion about IEDs where she may have been offering to
10 supply some material to make IEDs, but that she thought it
11 would be in the context of the Apocalypse.

12 MR. LIGHT: Well, that's the discussion
13 apparently specifically on January 14th, but there are other
14 discussions as well that she is party to, and it's not just
15 discussions about the Apocalypse.

16 And if you'll give me a moment.

17 (*Brief pause.*)

18 MR. LIGHT: I'm actually not finding any
19 discussion of the Apocalypse on the 14th, Your Honor. Perhaps
20 Mr. Rataj could point me to that part of the discussion.

21 MR. RATAJ: It's amazing the Government doesn't
22 even know their own case, Your Honor.

23 THE COURT: Mr. Rataj, do you have it? What
24 transcript is it?

25 MR. RATAJ: It would be Volume 28, page 83.

2 MR. LIGHT: I point to a couple of things for
3 the Court's consideration. First of all -- and this is from
4 the transcript on January 14th. This is Government Exhibit 49
5 A at page five as they are inspecting the workroom at the
6 warehouse. The agent says: "I brought a few things out. See
7 the cast boosters? Basically it's like TNT. It's very loud
8 and will do, do a lot of good work."

9 David Stone says: "Extremely nice."

12 Tina Stone says: "We've got to have Richie get
13 ahold of his buddy."

14 And then David Stone talks about the need to
15 store this in cardboard to absorb some moisture.

16 Later on the agent says: "Little electric
17 blasting caps. And, again, it's easier for us to get this
18 stuff a little at a time, 'cause for obvious reasons."

19 Stone says: "Most definitely."

20 The agent says: "We don't want to -- I got a
21 quite a bit more I've got to bring up, but I guess I gotta
22 bring a little at a time, because I don't want to, you know,
23 don't need to raise any eyebrows."

24 And this is with Tina Stone participating in the
25 discussion.

1 Later on in 49 G, the reference to Richie gets
2 clarified a little bit.

3 THE COURT: What page are you on?

4 MR. LIGHT: Page 72.

5 THE COURT: All right.

6 MR. LIGHT: The agent, talking about Jared,
7 says: "He is -- that boy better put some rocks in his pocket.
8 If a strong wind, man, he'll blow away."

9 David Stone says: "He seemed to be a nice kid."

10 The agent says: "Yeah, he's quiet, but he don't
11 say nothin'."

12 Going on, Tina Stone says: "You got to get on
13 Richie about contacting that friend of his."

14 The agent says: "Who is that?"

15 David Stone says: "Oh."

16 Tina: "That's got the dad who does the
17 heavy --"

18 David says: "Construction."

19 Tina says: "Exactly. He can get dynamite with
20 no problem."

21 Now, if we go to the discussion on January 9th
22 in the trailer before the training starts, there is discussion
23 in which Tina Stone is involved, talking about what's going to
24 happen on February 6th.

25 David Stone says: "I'm taking a security team,

1 is what I'm taking. I'm taking one secretarial person. That
2 would be her."

3 Tina Stone says: "That's me."

4 David Stone says: "And for security, two is
5 going to sit in the vehicle. Two will not leave the vehicle,
6 because that's where our rifles are going to be sitting. They
7 wanted no guns in the open policy on this. So, that means if
8 you have a handgun that goes and it stays tucked. Okay?"

9 Joshua Clough says: "How about duffle bags?
10 How about making an operational one?"

11 David Stone says: "Because there ain't going to
12 be. Kentucky is hopping with some fed. activity."

13 "So?"

14 And proceeding: "This meeting is going to be
15 coming off. Things are getting hot. ATF is all over
16 Kentucky. So, we are going to go in hot and heavy. We're
17 taking rifles. We're taking at least six mags. apiece. We
18 are taking blow-out bags, and they are going to be tied to the
19 top of the van. We're taking all of our military gear with
20 us. And if we have to walk it home, we'll walk it home."

21 Tina says: "Will you carry me, baby?"

22 Because at that point she was going to be part
23 of the trip down to Kentucky. She didn't end up going.

24 THE COURT: And so you're saying that being
25 present for that discussion on February 6th ties her into a

1 war on the Government of the United States?

2 MR. LIGHT: It could -- it ties her into
3 knowledge and an understanding that part of the aim of the
4 Hutaree was to oppose by force federal authorities.

5 THE COURT: Knowledge and understanding that
6 part of the aim was.

7 What gets her as part of the conspiracy?

8 MR. LIGHT: Her participation as I've described
9 earlier in the discussions about obtaining the explosives and
10 obtaining the components --

11 THE COURT: But that was January 14th?

12 MR. LIGHT: January 14th and a number of other
13 dates --

14 THE COURT: Well, that's what I've -- that's
15 what my question is designed to get to.

16 Mr. Rataj said there were no other discussions
17 that she was a part of.

18 MR. LIGHT: Well . . .

19 THE COURT: And that maybe you can check those.

20 MR. RATAJ: May I respond quickly, Your Honor?

21 THE COURT: You may.

22 MR. RATAJ: First of all, if you will remember,
23 during my cross-examination of Special Agent Haug, I was able
24 to point out all of the things that he purposely left out of
25 his 302 which was relevant to this investigation.

1 And Mr. Light has still not, okay, responded to
2 your question as to how the conversation -- the conversation
3 regarding a coffee can, okay, where right after they start
4 talking about the end of times -- he just wants to ignore
5 that, just like Jersey Steve did up on the witness stand.

6 They don't want to put anything -- Stone was
7 asked when was the war going to start. Oh, it could start
8 next week. It could start in one of seven states. I mean,
9 the answers changed all the time.

10 And I asked Haug, okay, where is that in your
11 302? I didn't put it in there. Was it relevant to the
12 investigation? Yes.

13 And you're getting the same thing right here.

14 THE COURT: All right. So, Mr. Light, as I look
15 at this transcript, there were a number of questions that
16 Mr. Rataj asked Agent Haug about what happened at the
17 warehouse. And this is where he said -- one of the questions
18 was from Mr. Rataj, and he said that: "Whenever you're
19 talking about the feds., you are not even talking about our
20 federal government. You're talking about the global
21 government?" And he said: "Do you see that?"

22 "Yes, sir."

23 And then there was earlier than that Mr. Haug's
24 agreement that there had been this discussion about the war
25 coming when the antichrist makes war with the saints.

1 So, there was at that time a disclaimer, if you
2 will, from David Stone, Sr., that he wasn't talking about the
3 federal government, and certainly in front of Tina Stone he
4 talks about this war with the antichrist.

5 And I guess all of this gets back to the danger
6 in saying that people adopt whatever it is that they're
7 hearing around them.

8 Let's say, for example, that the only discussion
9 that Tina Stone was ever part of was one discussing a war with
10 the antichrist. And if I agree with the Government's
11 position, that should let Tina Stone out, right? Because
12 she's around the discussion and the discussion is about the
13 war with the antichrist.

14 MR. LIGHT: Well --

15 THE COURT: And then she may have been around
16 another discussion where there is talk about a war with
17 someone else.

18 Where do we draw the line between what someone
19 is just listening to and not necessarily buying into and what
20 they are buying into such that they should be responsible for
21 the commission of a crime?

22 MR. LIGHT: We draw the line where they either
23 agree expressly to do something or to join in a plan or
24 conspiracy or when they take actions that reflect their
25 agreement to join in the conspiracy.

1 THE COURT: What about Mr. Stone saying as late
2 as February 6th I'm not talking about the federal government;
3 I'm talking about the global government?

4 MR. LIGHT: Well, I think that's a
5 mischaracterization of what he said on February 6th, and it
6 reflects a misunderstanding of the relationship between the
7 various elements of government that Mr. Stone had and that he
8 shared with the other members, which is, you know -- again,
9 referring back to that segment that I read from to the Court
10 and to other similar discussions, "they're all inextricably
11 intertwined."

12 And, you know, it's not him saying it's not the
13 federal government; it's something over and above the federal
14 government. It's him saying it's the New World Order or the
15 United Nations or some organization over the federal
16 government, using the federal government as a tool.

17 I think that's an accurate interpretation of
18 what he means there if taken in the context of other
19 statements. He puts them all together.

20 And the federal government is repeatedly an
21 element of the group that he opposes, an element of the enemy
22 that he identifies and the enemy that is going to be opposed
23 by force. And sometimes it's specific to ATF. Sometimes it's
24 specific to other federal government organizations.

25 More often it's the federal government as an

1 aspect of law enforcement. And there's no question that when
2 he's talking about the, you know, 650,000 of law enforcement
3 that he wants to chip away at in that conversation that I
4 believe Mr. Thomas referred to, that includes local, state,
5 and federal law enforcement. It's not just local police
6 officers. It's the whole ball of wax that he aims at, and it
7 includes -- and he knows it includes -- the federal the
8 government.

9 It is not as though David Stone were saying, oh,
10 we oppose everybody but the federal government, that is in law
11 enforcement.

12 I don't think that's a correct interpretation of
13 that passage that was quoted.

14 THE COURT: Okay. Thank you.

15 Counsel, we'll take a break?

16 I'm sorry?

17 MR. SCHARG: Can we take a half hour break --

18 THE COURT: Yes.

19 MR. RATAJ: -- to eat lunch, Your Honor?

20 THE COURT: Yes. We'll break until two. Thank
21 you.

22 (*Recess held from 1:13 p.m. until 2:02 p.m.*)

23 THE COURT: Thank you.

24 Is everyone back?

25 Who is next? Mr. Satawa?

1 Mr. Light, question. Mr. Light, I was looking
2 back at the opening statement that Mr. Graveline gave, and I
3 know that it is not evidence, but he says on page 12 that:

4 "Any number of different incidents would have
5 led to the start of this war. It could be a traffic stop. It
6 could have been a search warrant. It could have been an
7 action by another militia group. However, the evidence is
8 going to show that in 2009 and 2010, and just as you heard in
9 that second clip from August 13, 2009, a plan started to
10 develop within the Hutaree, and that was to kill a member of
11 local law enforcement and then to attack that officer's
12 funeral procession because that's where a large number of law
13 enforcement would be."

14 So, my question is in your argument today you're
15 trying to tell me that it wasn't just that scenario that could
16 unfold, but that it was other scenarios also that you have
17 presented proofs on and that evidence a broader -- a
18 conspiracy that was not just to bring in federal law
19 enforcement to a funeral procession, but to prompt them to
20 respond to any kind of attack as described in the indictment
21 on local law enforcement.

22 You -- "you" meaning the Government -- really
23 did narrow this issue in opening, did you not?

24 MR. LIGHT: I don't think so, Your Honor,
25 because I don't think an opening statement limits the

1 Government to the facts or the parts of the case that are
2 referenced in an opening statement.

3 An opening statement isn't intended or required
4 to be a statement of every piece of evidence and every theory
5 on which the Government might be able to establish the
6 allegations of the indictment.

7 THE COURT: I do understand that. But this was
8 so specific and that it is in large part what we've been
9 talking about a good part of this morning, and that is exactly
10 what is the plan. And the plan was to attack this funeral
11 procession as outlined in Mr. Graveline's opening statement.

12 I just want to know what your reaction was to
13 it, because he did -- he did narrow the issue for trial I
14 think.

15 MR. LIGHT: Well, I believe that he focused on
16 the same thing that the Court has focused on here today. But
17 I don't think that that limits the Government to eliminate
18 other bases for liability that are alleged in the indictment.

19 The indictment, if anything, is what should be
20 looked to as to whether it limits the bases for liability
21 under the statute.

22 THE COURT: Okay. All right.

23 MR. LIGHT: But I mean I know that the Court is
24 focused on that particular theory, and I have attempted to
25 also focus on the evidence as it relates to that particular

1 theory as well as the other theories.

2 THE COURT: But you said it is broader than the
3 funeral procession theory in that it included all of these
4 other potential ways of killing law enforcement.

5 You have focused the Court on -- well, that's
6 not true, because you did say that the people that you -- that
7 as we went through the evidence beginning with August 13, '09,
8 that not all of those people were privy to a conversation
9 about a funeral procession, but that it didn't matter.

10 All right.

11 MR. LIGHT: Thank you, Your Honor.

12 THE COURT: Mr. Satawa?

13 MR. SATAWA: May it please the Court, Your
14 Honor. Good afternoon.

15 THE COURT: Good afternoon.

16 MR. SATAWA: Your Honor, I'd like to first start
17 by adopting the arguments made by co-counsel here today, as
18 well as those that will be made by counsel after me.

19 I also want to echo both the spirit and the
20 sentiment of the argument made by Mr. Rataj, Judge. It's
21 difficult, I think, when you're sitting here during this case,
22 to detach emotion and remain completely stoic in your reaction
23 to this case; a case that is without question on many levels,
24 at a minimum, extraordinarily troubling in its prosecution.

25 Your Honor, as the Court I think has done an

1 excellent job so far today of pointing out, we know it takes
2 more than mere presence at the meetings or while things are
3 being said, to constitute guilt or participating in the two
4 alleged conspiracies.

5 We have the mere presence instruction that this
6 Court is going to give to the jury.

7 We also know how many people were present at
8 various meetings or trainings that aren't sitting here today;
9 people like Shannon Witt who, when asked who will pull the
10 trigger, was the first to say I will, who was at the
11 warehouse, who was at the bomb demonstrations performed by
12 Agent Haug. Eric Jackson, the Lineweavers, Pete Palmer, Dan
13 Kelly who lived at the Tomer Road address for long periods of
14 time. And, Your Honor, if mere presence was enough, I'm quite
15 certain that any number of those folks, if not others, would
16 have been charged.

17 Your Honor, as I've listened to the Government
18 here today and I listened to the argument about Count 1, it
19 seems to me that, as I've heard the Government, and in their
20 written responsive pleading, Your Honor, that they want to
21 have their cake and eat it too. They charge a conspiracy --
22 as Your Honor points out, not only do they charge that
23 conspiracy in the indictment, but in opening statement to the
24 jury, tell the Court, as well as the jury, that that
25 conspiracy has a specific plan and a specific target; and,

1 that is, killing a police officer and ambushing the funeral.

2 Then when the Defense focuses on that plan and
3 attacks it, they complain. They distance themselves from it.

4 Your Honor, it's very difficult for me to follow
5 what the Government is really arguing at this point in
6 response to the various Rule 29s that have been made. But one
7 thing strikes me as clear, and that is they continue to use
8 the word "Hutaree" as a substitute for the individual
9 Defendants.

10 I submit to you, Your Honor, that that is no
11 accident; that they are doing that on purpose. They are doing
12 that on purpose because they cannot prove anything against any
13 of the individual Defendants in this case except -- well, they
14 cannot argue -- they cannot prove anything against any
15 specific individual Defendant in this case, Your Honor. And
16 they certainly cannot do that against Mr. Meeks.

17 It is only by combining what each and every one
18 of these individuals said over the course of an 18-month
19 period, many of which conversations that only some of them
20 were present for. And by that, of course, I mean my client
21 Mr. Meeks was not present, as I pointed out -- at least I
22 tried to follow the Court's instruction in my pleading on
23 Friday and discuss some of the many 801(d)(3) -- (d) --
24 801(d) --

25 THE COURT: (E).

1 MR. SATAWA: You know what I mean, Judge.
2 -- statements that the Court asked us to note
3 and list for Your Honor. It was stunning to me how often my
4 client wasn't even there.

5 As an example, Your Honor -- and I was going to
6 come back to that later. But he was never at the warehouse.
7 He was late to the August 13th training where explosive
8 devices were used, that the Government continues to try to
9 refer to as IEDs.

10 Your Honor, I suppose a bottle rocket -- and if
11 the Government is taping this, I suppose this is an admission.
12 That at Lake St. Helen last summer on the 4th of July I
13 possessed and used IEDs, because I, Your Honor, shot off
14 mortars. I, Your Honor, shot off bottle rockets. I, Your
15 Honor, exploded devices that, to quote the individuals on
16 those tapes, including Daniel Murray, were slightly bigger
17 than an M-80 or similar to a cherry bomb.

18 THE COURT: Mr. Rataj, do you want to stop your
19 client from incriminating himself?

20 MR. SCHARG: No, we'll stay quiet.

21 MR. SATAWA: I think she wants you to represent
22 me now, Mike.

23 Your Honor, the question we should ask the
24 Government is what is essential in the indictment and proofs,
25 because all they keep doing is repeating the language of the

1 statutes involved and somehow relating that to the indictment.

2 But what they don't do is ask the critical
3 question that we all ask, including Your Honor; and, that is,
4 how does the mere presence at these meetings or trainings, how
5 does the language used by the Defendants, how does the
6 combination of even that by my client with others equate to
7 guilt of Counts 1 and 2.

8 And, Your Honor, what strikes me, as I was in
9 the middle of saying, was not only was my client late to the
10 June 13th demonstration or training, excuse me, he was not
11 present for either of the August meetings where Agent Haug,
12 the only person in this case who had not only the ability and
13 resources to build a true EFP, but also built, brought,
14 introduced and demonstrated an explosive device -- my client
15 wasn't at either one.

16 When this Court asked the Government this
17 morning, Mr. Light, in response to my objection, can you be
18 more specific to individual Defendants, I think it's telling
19 that the Government couldn't do it. The reason they couldn't
20 do it is because they can't do it. And the reason they can't
21 do it, Your Honor, is because Mr. Meeks, along with others,
22 can't be individualized in this case with guilt. They can be
23 individualized by association, but they can't be
24 individualized with guilt.

25 My client, Mr. Meeks, cannot be. And like

1 Mr. Thomas, I want to apologize. My comments are not meant to
2 be stepping on the toes of any other Defendant or Defense
3 counsel. I'm speaking only of course as to Mr. Meeks.

4 Your Honor, I read the Government's -- I read
5 the Government's response as an example. And I see on pages
6 33 and 34 the statement:

7 "While he was not part of the group that
8 observed the detonation of an EFP on August
9 27, 2009, he was invited."

10 How that is relevant is beyond me.

11 "And he showed up later that day. When
12 he saw the results of the demonstration, he
13 immediately recognized what the UCE had
14 brought to the group and joined in discussing
15 it further."

16 The Government's responsive pleading goes on to
17 say:

18 "Mr. Meeks was tasked with locating and
19 obtaining a van for use in the op. and was
20 involved in getting the street signs the
21 group wanted to steal for use in the EFPS."

22 Your Honor, that is a combination of hyperbole,
23 exaggeration, and outright lying and distorting what appears
24 on this record before Your Honor.

25 How dare, as Mr. Rataj said, the Government,

1 representing the -- the lawyers representing the Government in
2 this case, who are charged with doing justice, file a pleading
3 that says that about Mr. Meeks?

4 There is no proof -- because they don't say that
5 he was asked to look for street signs. They say he was
6 involved.

7 Judge, there is not a shred of evidence on this
8 record before Your Honor that my client took a single step
9 towards acquiring a street sign or actually attempted to or
10 did acquire a single street sign.

11 He was involved in one conversation that I
12 identified in my brief about street signs where his response
13 was, so, you need the big signs or you're talking about the
14 big signs.

15 Your Honor, Mr. Meeks did not join in discussing
16 the August 27th, 2009 EFP later, as suggested by the
17 Government. Mr. Meeks talked about his own training and
18 experience as a United States Marine at United States Marine
19 Base Camp Pendleton at demolition school when he honorably
20 served this country as a United States Marine.

21 The suggestion that him speaking of his own
22 apparently aced final exam at bomb demolition school, because
23 he blew up some device that he made that got props from a
24 sergeant at demolition school, and trying to tell the Court --
25 or suggest to this Court that somehow -- that somehow means he

1 joined the discussion, is troubling to say the least.

2 Again, Your Honor, he was late to the June 13th
3 training. He was absent from the August 13th training and
4 absent from the August 27th training -- demonstration.

5 The Government went on to talk this morning and
6 in its responsive pleading about the Kentucky trip. Before
7 they left, Mr. Light said this morning, there was
8 conversations in the trailer about IEDs and EFPs. And
9 Mr. Light pointed to that as possible further evidence of my
10 client's and other Defendants' participation in this plan or a
11 conspiracy.

12 Your Honor, there's no evidence that my client
13 participated in those conversations in the trailer. Agent
14 Haug was very clear that my client arrived late and did not
15 remember at what point he got there. And there's certainly no
16 evidence on this record that my client was part of any
17 conversation that occurred in that trailer before they left in
18 the van for Kentucky.

19 I will point to what I wrote in my Rule 29
20 motion on Friday. Michael Meeks is not heard on Government
21 Exhibit 54-A or B, the part at the beginning of the -- at the
22 beginning of the trip before they left in the van, and does
23 not participate -- is not heard participating in the
24 conversation at that point.

25 In fact, if Your Honor remembers the video seen

1 in 54-F, Mr. Meeks is seen sitting in the back row staring out
2 the window, looking around, and not participating in any way
3 in the conversation.

4 Later, when someone needs to get Mr. Meeks'
5 attention, they have to -- later when Mr. Meeks is being
6 solicited to participate in the conversation, someone has to
7 get his attention.

8 Your Honor, the person doing most of the talking
9 is Agent Haug.

10 Your Honor, I tried to quote from the record
11 exactly in my Rule 29 on Friday. I listed the comments that
12 my client did make both on February 20th, 2010 as well as
13 earlier statements.

14 Your Honor, some of the things that my client
15 said are admittedly offensive, and that can't be denied. But,
16 Your Honor, as other counsel have done a much better job than
17 I of explaining to this Court, what they are not is illegal.

18 Even my client's participation in the February
19 20th, 2010 conversation about copicide began with my client
20 stating, as I said in my motion, words to the effect of "That
21 guy just made my Top 10 List." Judge, "copicide" is a term
22 that my client was clearly using to mean if you're going to
23 go, you might as well have to cops kill you, apparently to be
24 a martyr.

25 I don't know, Your Honor. I guess what I meant

1 to say is apparently the Government is suggesting that that's
2 what the purpose would be, is to be a martyr.

3 But in no way does the term "copicide" mean
4 shooting another cop. It means the cop shooting you.

5 And, Your Honor, what's more, and critically
6 important, is other than exercising his own First Amendment
7 right to say things, and things that are quite candidly, Your
8 Honor, like I said, not all that smart -- in fact, Your Honor,
9 I will be very candid. On the four or five comments I
10 actually put in my brief, because I wanted my brief to be a
11 fair statement on what my client actually did say on some of
12 these statements that are alleged either to be statements in
13 furtherance of the conspiracy or used to prove the conspiracy
14 or verbal acts, Your Honor, some of the things my client says,
15 they range pretty high on the dumbness and stupidity meter. I
16 mean, they do. But what they are not is illegal. And what
17 they're not is ever evidence that my client joined this
18 conspiracy or ever had knowledge of a conspiracy, its intent
19 or its objective.

20 And, Your Honor, in that February 20, 2010
21 copicide conversation where my client does say things like I'm
22 looking at enough people here to do something, you just have
23 to be motivated to do it, there is no evidence that my client
24 intended that statement to be taken seriously. There is no
25 evidence that my client stated -- made that statement as part

1 of a conspiracy to oppose by force the lawful authority of the
2 United States Government. There is no suggestion that my
3 client was stating that as a suggestion or an agreement on any
4 kind of plan, because, Your Honor, there's no evidence
5 admitted even by the Government at that February 20th, 2010
6 conversation that there ever was an agreement, that there ever
7 was a plan or that there ever was a target.

8 And, Your Honor, what strikes me as troubling is
9 that when you look at the exhibits that I pointed out to Your
10 Honor in my written pleading, that my client -- I suppose
11 there's three different ones, Your Honor -- or four. The one
12 end is the overwhelming number of exhibits, telephone calls
13 and live body recordings that were made where my client wasn't
14 even present.

15 THE COURT: Mr. Satawa, all of the Defendants
16 have made much of Agent Haug's testimony that by February 20th
17 there was no plan, no date, no time, no target. And the
18 Government's position is that that really is of no moment
19 because it is an agreement and there doesn't have to be --
20 even if it's a year or two years off, if there was an
21 agreement, if there was a discussion to kill police officers
22 and then certain steps taken to accomplish that, even if it
23 wasn't going to be accomplished for another year or two years
24 or no definite date, that that's sufficient.

25 MR. SATAWA: Or five years.

1 THE COURT: Or five years.

2 MR. SATAWA: According to Mr. Stone at one point
3 I believe.

4 THE COURT: Whatever.

5 MR. SATAWA: Yeah. Your Honor, I would answer
6 that question by saying this -- and I think Leslie Larsen
7 herself when asked on cross-examination acknowledged this as
8 well.

9 And that is, Judge, the agreement -- we are not
10 looking just for an agreement. We are not looking for a
11 consensus that my client joined. We are not looking for an
12 agreement that my client joined.

13 THE COURT: Well, he would have had to have
14 joined somebody.

15 MR. SATAWA: I understand, Your Honor.

16 But even if the Court feels that the Government
17 has proven that my client did agree to kill a local law
18 enforcement officer -- Judge, I submit that there's no proof
19 of that, but if the Court's question assumes that, Agent
20 Larsen acknowledged that none of these Defendants, including
21 my client, are charged with conspiracy to commit murder on a
22 police officer. My client is charged with opposing by force
23 the lawful authority of the United States.

24 And, Judge, to say that my client saying things
25 like copicide or that guy made my Top 10 List or I'm looking

1 at enough people to do whatever means that he knowingly joined
2 a conspiracy to oppose by force the lawful authority of the
3 United States, Your Honor, isn't just an inference that the
4 Government argued to in their presentation to the Court this
5 morning, stating that we are entitled not just to evidence in
6 the light most favorable to the Government, but reasonable
7 inferences, Judge, that's not an inference. That is an
8 inference on an assumption, on a presumption, on a speculative
9 guess.

10 Judge, I mean, the fact that that conversation
11 occurred, by itself, means or proves that whatever this Court,
12 for purposes of this Rule 29, I suppose, determines that it
13 proves.

14 But what I would submit to Your Honor is that it
15 is a huge step to go from, I would submit, joking around and
16 puffery and hyperbole and to use the words that other counsel
17 have used.

18 But even if the Court says, okay, I'm going to
19 eliminate that because I'm supposed to look at the evidence in
20 a light most favorable to the Government, so I'm going to take
21 them at their word. I'm going to take the leap of faith that
22 the Government asked me to make and assume that this
23 conversation are people talking seriously. By itself, Judge,
24 it doesn't establish a conspiracy to resist by force the
25 lawful authority of the United States, even if it proves a

1 conspiracy to commit murder on local law enforcement.

2 Judge, there's -- I think Mr. Helfrick's
3 cross-examination as to Mr. Murray and I think Agent Haug, as
4 well, was extraordinarily telling when he said, by the way,
5 how many funerals do you see driving through the woods? All
6 your training was in the woods. Did you ever train to ambush
7 a police officer's funeral procession?

8 The comments that are attributed to other
9 Defendants in this case about, well, that could take out a
10 whole convoy -- Your Honor, a convoy is a military term of art
11 that suggests a foreign Army. It suggests the United Nations.
12 It suggests the Chinese or the Germans or whoever it is, and I
13 suppose if we believe the "Red Dawn" movie, maybe the Cubans
14 in conjunction with the Soviet Union that doesn't exist
15 anymore. So, the Russians I guess.

16 Judge, what is law enforcement? Law enforcement
17 don't drive around in military convoys? Armies do.

18 What the Government has done here -- and I echo
19 Mr. Rataj's statements on this subject, Your Honor, because
20 what they've done is ingenious but I also suggest insidious.
21 Because what they've done is they've taken -- and, again, they
22 are in control of the indictment. They are in control of what
23 was charged here. But they've taken Count 1, the seditious
24 conspiracy, and they've said Mr. Meeks has committed a
25 conspiracy to oppose by force the lawful authority of the

1 United States. And they've taken this grab bag and mishmash
2 of actions and statements, and they've put it all together,
3 and they've stirred it up in a pot, and they want this Court
4 to take a sip with a spoon and not say it's foul.

5 But, Judge, we have to really look at what's
6 inside that brew to answer Your Honor's question. Because,
7 because the fact that people had guns -- individually all of
8 these things that Mr. Meeks was alleged to have done as an
9 overt act is legal. Again, my client had no illegal weapons.
10 My client didn't have an automatic weapon. My client didn't
11 have a short-barreled rifle.

12 Saying stupid things, thank God for my children,
13 is not illegal. Running around in the woods in tiger fatigues
14 is not illegal. Carrying a rifle while you are running around
15 in the woods in tiger fatigues is not illegal. Talking about
16 dumb things while doing that is not illegal.

17 But what the Government tries to do is, well,
18 look, we, as Your Honor has properly pointed out, we have
19 charged Mr. Meeks and others with opposing by force the lawful
20 authority of the United States. They've trained in the woods.
21 So they -- but what they haven't done is support their own
22 specific plan, conspiracy, target and agreement.

23 They haven't shown that they ever -- they ever
24 did road training. They never did, you know, we're going to
25 ambush this road. They never trained in a cemetery. They

1 never trained on a road. They never trained as to, you know,
2 what we would do if a funeral was driving by with X amount of
3 police cars.

4 As Mr. Helfrick's cross -- it was a brilliant
5 line of questioning, Judge. The fact that they want these
6 pieces that don't fit together, they want Your Honor to make
7 them fit together because they don't. Because the training
8 that they've conducted, that my client participated in,
9 doesn't fit their own plan that they have presented to Your
10 Honor as the basis of the charges. The two things don't fit
11 together.

12 There is no evidence that the training that my
13 client participated in would in any way advance a plan to kill
14 a police officer and ambush his funeral. None. Even if he
15 was doing something illegal, like the Government tries to
16 suggest, what he wasn't was practicing to do that. Because
17 there's no evidence of it.

18 These two things don't fit together, Your Honor.
19 They don't fit together unless they get past Your Honor and
20 then hope that a jury is just impressed or scared or
21 intimidated or frightened into putting them together for them.

22 Because when Your Honor asks those tough
23 questions, the Government fumbles. They can't answer them.
24 They can't answer them, Your Honor, because it isn't there.
25 There is no answer.

1 That's how I am going to answer the Court's
2 question. And there's lawyers here that are both more
3 experienced and smarter than I am, so maybe they will add
4 something to my answer. But that's how I would answer it,
5 Your Honor.

6 Just because my client did any number of the
7 things he's charged with doing in the indictment as an overt
8 act doesn't mean he was practicing or ever trained to kill a
9 police officer, ambush his funeral, and thereby oppose by
10 force the lawful authority of the United States. Even saying
11 the things he said on February 20th doesn't make it so.

12 Your Honor, again, to finish very, very
13 briefly -- and I appreciate the Court's question, because I
14 think the Court asks a very good question, and I would -- and
15 I appreciate the opportunity to address that issue because I
16 think it's important.

17 Your Honor, I would simply say this. I was
18 impressed after reviewing the transcripts, the trial
19 transcripts in this case, the number of exhibits where my
20 client, A, wasn't even present for, all of the trips to the
21 warehouse, the two bomb demonstrations that were demonstrated
22 by Agent Haug, et cetera. And then there's the conversations
23 where my client was allegedly there, but never participated.
24 Never participated, thereby, as Your Honor has asked, showing
25 any acknowledgment of what was being said, agreement with what

1 was being said, adoption of what was being said in any way.

2 And then there are the conversations that my
3 client did participate in, saying things like I love that
4 smell or talking about his training as a United States Marine.
5 That, I would submit, are in no way evidence of anything,
6 certainly not evidence of his participation in or adoption of
7 any alleged conspiracy in this case.

8 And then the fourth category, Your Honor -- a
9 category that's infinitesimally small -- and I believe I came
10 up with far less than 10 examples of it -- was where my client
11 said anything at all that could be considered either, A, a
12 verbal act or, B, admissible under 801(d)(2)(E).

13 It's just not there against Mr. Meeks, Your
14 Honor. And I would join all the other counsel in asking the
15 Court, on behalf of Mr. Meeks, to dismiss this case.

16 Judge, he has been sitting in jail two years
17 now. I think that he has more than paid the price for the
18 investigation and the case that this Court -- that the
19 Government has brought in to this Honorable Court and has
20 presented not only to this Honorable Court, but to the
21 citizens sitting in this jury.

22 Thank you.

23 THE COURT: Thank you.

24 Whoever is next?

25 MR. SCHARG: Thank you, Judge.

1 I kind of feel a little awkward being at the
2 podium in this case because I haven't been at the podium.

3 And there's two things that I'd like to say,
4 first of all, that I am going to try not to do, that are
5 unique in this case. I'm going to try not to mention other
6 Defendants in this case and I'm going to try not to repeat
7 myself.

8 Saying that, what I did today was look at the
9 trial transcripts and the opening statements and looked to see
10 what Mr. Graveline said about my client in his opening.

11 There were four things. And we are getting
12 close to the Jewish holiday and Passover and asks four
13 questions. And, interesting, there are four questions in his
14 opening statement.

15 First of all, the name of Kristopher Sickles,
16 the first time his name was mentioned on page 11 of the
17 2/13/12 transcript where Mr. Graveline says Khris Sickles was
18 a member of team Teok.

19 What significance does that mean? He was
20 participating in training at the Hutaree training session and
21 he was designated on one of the teams.

22 The second question comes from later on in that
23 transcript where it says that Khris Sickles possessed a weapon
24 during the training, which he did, along with everyone else.
25 There is no evidence that it was an illegal weapon. It was an

1 AR15, with no other significance.

2 The third time Mr. Sickles' name comes up in the
3 opening was that he was wearing a Ghillie suit, a Ghillie suit
4 that's purchased at any sporting goods store, that sells
5 hunting equipment. It's used for deer hunting.

6 The way that came up in the trial was during one
7 of the training sessions, during a break, Mr. Sickles put on
8 the Ghillie suit for like a photo op. There's no indication
9 that he wore it at any other time or for any other purpose
10 than to demonstrate that he had a Ghillie suit. It was not
11 used in any training. He never said he was going to use it
12 for any reason whatsoever. But the Government felt compelled
13 to mention it in their opening and to produce it as an exhibit
14 in this case.

15 The fourth time Mr. Sickles' name is mentioned,
16 the fourth and last time in the opening, was that the
17 Government went out of their way to talk about this night
18 training and that Mr. Sickles had night vision goggles.

19 During the trial there was no evidence that
20 Mr. Sickles participated in any night training. The testimony
21 was that he did not participate in the night training. And,
22 in fact, the night vision goggles were from a video game. And
23 although the Government would not admit it -- the Government
24 witness would not admit that it was a video game, the
25 Government knows it is. They know that it was from a video

1 game. And if you looked at it, that's what it was.

2 Now, in terms of the Government's response to
3 the motion for directed verdict, as was today where
4 Mr. Sickles's name comes up at the end of the Government's
5 argument and the Government is conceding that if Mr. Sickles
6 joined an alleged conspiracy and allegedly did some acts in
7 furtherance of the conspiracy, it would have been on August
8 22nd of -- excuse me -- it would have been on February 20th of
9 2010.

10 In the Government's response, the argument
11 regarding Mr. Sickles is found at pages 33 and 34.

12 And I should also say that when we talk about
13 hyperbole, the Government can also be accused of using the
14 same, because in the paragraph where the Government makes its
15 argument, its strong argument regarding Mr. Sickles'
16 involvement as a co-conspirator it starts out "Mr. Sickles
17 also came to numerous Hutaree training sessions."

18 We know, through the testimony of Agent Larsen,
19 that during the course of the Government's investigation
20 Mr. Sickles attended five trainings. His first training was
21 in September of 2008. He was not at another training for
22 almost a year. The next training was in August of 2009.

23 Mr. Sickles did not participate in any night
24 training. He did not participate in any meetings, any
25 weddings, any barmitzvahs, any type of ceremonies, any type of

1 telephone conversations, any type of body counts during that
2 period of time, was not involved in any demonstrations
3 regarding explosives, did not discuss any type of explosives.

4 There's not one shred of evidence to support
5 that in fact he was -- had any involvement at all in the
6 discussion, use, demonstration or possession of any type of
7 explosive devices.

8 The prosecution then goes on and says in the
9 next line "and also came a considerable distance from
10 Sandusky, Ohio."

11 He traveled an hour and a half to two hours five
12 times during 20 months to attend a daily -- a day of training
13 with the Hutaree Group. He was part of the Ohio Militia. And
14 during the course of the trial there kept on being reference
15 to the fact -- identifying Mr. Sickles and Mr. Ward not as
16 Hutaree, but saying the guys from Ohio, the Ohio Militia.

17 And the Ohio Militia consisted of two people:
18 Khris Sickles and Jacob Ward. Jacob Ward who has been
19 referenced to in the testimony as someone who was delusional,
20 more delusional than other people in this case, but he was
21 delusional.

22 The Government then goes on and says, well,
23 Mr. Sickles was involved in the training on January 9th, 2010.

24 So, Mr. Sickles was at a training session in
25 September of 2007. The next training session was in August of

1 2009, and then there was a training session in November of
2 2009, and then the next -- the fourth training session during
3 this 20-month period that Mr. Sickles attended was January
4 9th, 2010.

5 And from the testimony of Agent Haug, there were
6 a number of discussions, a number of discussions regarding the
7 Kentucky trip and other discussions before Mr. Sickles even
8 got there.

9 Mr. Sickles arrived from his journey across the
10 midwest, as the Government says, in time to participate in the
11 training exercises of January 9th.

12 The Government concludes this overwhelming case
13 and argument against Mr. Sickles by saying that February
14 20th -- that Sickles returned to Tomer Road the fifth time,
15 the fifth and final time "February 20th for training and was
16 an active participant later that day in the discussion of
17 killing cops, including killing a single cop and then
18 attacking the funeral with IEDs and EFPs."

19 I commented and I directed the Court in my
20 joinder and pleadings that that's just out-and-out false and
21 taken totally out of context. Because although the
22 conversation and disjointed conversation that day on February
23 20th started out with language about a plane going into a
24 building, about copicide, there was -- there was talk by I
25 think Mr. Clough about the fact that there had been a funeral

1 in Monroe and that there was some type of procession. And
2 Mr. Clough said we should throw some nails on the ground, and
3 then there was -- someone made a statement about IEDs. It's
4 the first time. And Mr. Sickles' response to that was, "But
5 that's not fair."

6 "But that's not fair." That's what he said.

7 And I echo his comments now. But that's not
8 fair that this case continues against Kristopher Sickles,
9 because the Government has not met its burden.

10 There's a couple quick things I want to say
11 before I sit down.

12 It's tough being a lawyer in a trial like this
13 and keeping quiet, which I pretty much did. But I did the job
14 that I thought I should do, and sometimes advocacy is silent.

15 There's three things I'd like to say to the
16 Court.

17 One is Mr. Rataj is very passionate. He's an
18 ex-Marine and he fought for his country. He loves his
19 country. And he has very strong feelings about First
20 Amendment rights.

21 I, on the other hand, was a protester against an
22 unfair war back in the sixties. And people that I went to
23 school with -- well, went to school during the same time, in
24 Ohio, got gunned down because of freedom of speech, because
25 they voiced their opposition to the government, to an unfair

1 war. They opposed what the government was doing, and they
2 lost their lives.

3 And I feel very strongly also and as passionate
4 as Mr. Rataj does about freedom of speech, because it's
5 different things to different people.

6 The second thing I'd like to say is that this
7 group of lawyers, that I respect and adore, have been meeting
8 in the side room for the last seven weeks, and an individual
9 that will not be -- that I will not mention at this time to
10 protect the guilty and the innocent, said a lot of things, a
11 lot of ranting and antigovernment things in closed doors. And
12 I, along with others, didn't agree with him, but didn't object
13 to what he was saying.

14 And by the mere fact of staying in that room
15 with that person, the Government can make the same argument as
16 what my client did at certain times when other people were
17 ranting. We let them rant. We let them espouse
18 antigovernment sentiments. And the fact that we stay there,
19 remain in the room, that we don't criticize or question what
20 that person is saying, that's because he has a right to say
21 what he wants to say, as we all do.

22 And, finally, something that was very disturbing
23 to a number of us is when we got together one afternoon at Jim
24 Thomas's office, we were looking on the board and looking at
25 some old news media stuff, and we came across a statement in

1 some type of paper, whereas in late 2010, early 2011, Sarah
2 Palin, the ex-Governor of Alaska, had put out a hit list for
3 Congressmen and women who she wanted to unseat in the 2012
4 election. The pictures of those Congressmen and women were
5 posted. There were bull's-eyes on their faces. One of those
6 people targeted was a freshman Congress woman from Arizona.
7 Gabriel Gifford. It was her face that was on that hit list
8 with a bull's-eye on her face. Less than a month later, she
9 was gunned down at a shopping mall in her district.

10 And I assume before that happened, that when
11 Sarah Palin put out this hit list, I'm sure that a lot of
12 people e-mailed her and made statements and left messages
13 supporting what she was doing.

14 I guess the Government could say that Senator
15 Palin or Governor Palin and all those people who supported her
16 in terms of e-mailing her and encouraging her, that they all
17 should have been -- they could have been indicted and charged
18 with opposing by force the Government and targeting Congress
19 people.

20 I don't think they did.

21 As much as I despise and dislike and disrespect
22 the ex-Governor, I think that she had a right to freedom of
23 speech, because that's what it was. That's all it was.

24 In this case, there's a lot of people, including
25 my client, who is a strong advocate of First Amendment rights,

1 of Second Amendment rights, of the right to form a militia, to
2 protect his family, which came out all the times during this,
3 during this trial.

4 Was his words beyond mainstream? Yes. Was it
5 excessive? Yes. Was it vulgar? Yes. But it was protected
6 speech, protected activities. And there is no indication and
7 no evidence that he conspired to overthrow the Government or
8 that he conspired to build a weapon of mass destruction,
9 because on that count there is no evidence whatsoever.

10 Thank you.

11 THE COURT: Thank you.

12 MR. WEISS: Good afternoon, Your Honor. As I
13 did in writing, I'm going to respectfully join orally in the
14 remarks by co-counsel.

15 Your Honor, I know there has been a lot of
16 discussion where the First Amendment ends and criminality
17 begins.

18 And as this case has unfolded, you know, I can't
19 help by thinking that a lot of times you hear about situations
20 in the media where the FBI has arrested someone who is on
21 their way with an inert explosive device, that has been given
22 to them by the government, to a particular building or what
23 have you, and the government has supplied that device.
24 There's a specific plan. There's a specific target. There's
25 a specific location. Admittedly, the explosives are

1 nonexistent because the Government has given it to them. But
2 there is something concrete there.

3 Here, with all due respect -- and I believe
4 because Dan Murray was unraveling, we will never know. But
5 what we do know is on the basis of this record, there is no
6 target, there is no date, there is no specificity at all
7 except for occasionally some people mouthing off.

8 And I think that the remarks of I believe it was
9 Mr. Murray, but it could have been Agent Haug, there is a
10 training one night and they are starting to come to the woods,
11 and someone asks, well, if we run into somebody, what should
12 we do. And the remark is made, well, we'll kill 'em.

13 And everybody knew that that was simply a
14 hyperbolic statement not to be taken seriously. And they took
15 five. They took a deep breath and they walked around the
16 woods. In other words, they knew that at times statements
17 were going to be made among themselves that were not to be
18 taken as true. They were simply expressions, they were
19 statements and, I respectfully submit, they were protected by
20 the First Amendment.

21 The Government takes the position that any time
22 there is a reference to killing a law enforcement officer,
23 even if a federal law enforcement officer may be in the -- I
24 forget what the word was called -- in a procession, that that
25 somehow is sedition.

1 Well, if you look at 2384, it really doesn't say
2 that. And if you look at Title 18 Section 111, which
3 prescribes assaulting or even killing a federal agent, if the
4 Government's theory was accurate, there would be no necessity
5 for that statute. It would be superfluous.

6 I believe it was Ralph Waldo Emerson that said
7 "Consistency is the hobgoblin of little minds." If that is
8 true, then the next of my remarks are going to demonstrate
9 that I have a rather little mind.

10 But what troubles me is that on this record Dan
11 Murray and, to an extent, Agent Larsen testified a great deal
12 about what transpired with the Southern Michigan Volunteer
13 Militia. And with what transpired there, to someone like
14 Mr. Piatek, who would drive up from Indiana, there appeared to
15 be no demonstrable difference. The clothing, fatigues,
16 camouflage, the boonie hats, the helmets, the type of
17 equipment, whether they were ammunition vests, web bags,
18 battle fatigues, backpacks, equipment vests, even the SMVM
19 used the balcommas (phonetic) -- I think I'm probably
20 butchering that. All I'm saying is the SMVM was allowed to
21 wear that type of military-related gear. And both Agent
22 Larsen and Dan Murray indicated numerous times in front of the
23 jury that that was okay. It was neither suspicious. It was
24 not criminal.

25 But yet when I listen to Mr. Light, the fact

1 that Mr. Piatek associates with people dressed like that is
2 somehow criminal. And there's where I'm troubled by the
3 consistency or the inconsistency.

4 I'm troubled by the fact that they could engage
5 in military-style training, small groups going into woods,
6 using stealth tactics, silent moving, ambushing, search and
7 destroy, even trip wires, even having simulated grenades and
8 grenade launchers, having weapons on tripods, all that is okay
9 for the SMVM, but somehow when Mr. Piatek comes to Michigan,
10 it's criminal. I have a problem with that.

11 They can talk about the SMVM, about having to
12 harden themselves, that they have to either learn to shoot to
13 kill or get out; that the frontline of the war is coming; that
14 our targets are the Blue Helmets, that the FBI is fine,
15 spying, that they have hidden microphones and cameras, that we
16 hate the FBI, we hate the government, they are killers and
17 bastards, they are fucking murderers, that we don't support
18 the government. That's okay for the SMVM. But yet you come
19 to Michigan and it's criminal.

20 THE COURT: Well, Mr. Weiss, the Court hears
21 you, understands your argument. But in the end, what does
22 that matter for the decision that this Court needs to make
23 since the jury is going to be told they are not to consider
24 whether someone else should be charged or convicted or
25 anything like that you are saying?

1 MR. WEISS: Because I heard Mr. Light today
2 advocating for a denial of our Rule 29 motions. That given
3 the dress, the language, the training, the indicia of criminal
4 activity, when on the surface of it, I don't see a difference.

5 And if the Court is going to review all of the
6 evidence that has been presented, even if it's in the light
7 most favorable to the Government, it's all of the evidence.

8 And all I'm saying is when you have somebody
9 come up from Indiana or somewhere else and the training
10 appears to be the same as in other militias, that the
11 inference that they would like the Court to draw simply is
12 inappropriate.

13 Now, Mr. Light indicates that the subject of
14 this seditious activity had its genesis on October 13th --
15 excuse me -- August 13th, 2009 at a meeting.

16 Mr. Piatek is not present.

17 It was developed further, August 27th, 2009.
18 Mr. Piatek is not present.

19 There's more discussion on January 14th, 2010.
20 Mr. Piatek is not present.

21 And then there's further discussion on February
22 20th, 2010. Mr. Piatek is not present.

23 With all due respect, you can't be convicted --
24 you can't -- the Government has not sustained a demonstration
25 of a criminal conspiracy conduct against Mr. Piatek when he's

1 not aware of it.

2 Now, the Government says -- and the first time
3 they mention Mr. Piatek is on February 6, 2010, on the trip to
4 Kentucky.

5 We don't know what Mr. Piatek was told. We
6 know, from what the agent tells us, that he was a substitute
7 because other individuals could not go.

8 And Mr. Light spends a considerable amount of
9 time advocating to the Court, well, there was no objection to
10 what Mr. Stone was saying.

11 Well, first of all, we are not dealing here with
12 an involuntary manslaughter case where a mother or a doctor or
13 someone that owes a duty didn't act. We're dealing here with
14 a federal criminal conspiracy.

15 And I would respectfully cite to the Court the
16 Sixth Circuit Patterned Jury Instruction 3.03, Paragraph 3.

17 "But proof that a Defendant simply knew
18 about a conspiracy or was present at times or
19 associated with members of the group is not
20 enough even if he approved of what was
21 happening or did not object to it."

22 So, the Sixth Circuit has determined that
23 Mr. Light's argument is without merit in this matter.

24 Mr. Light then talks about, well, if you look at
25 the video when Mr. Stone is giving his speech, and that speaks

1 volumes as to the culpability of Mr. Piatek.

2 I too invite the Court to take a look at that
3 video. And I come at it from a hundred eighty degrees
4 different. Because what it shows is Mr. Piatek is sleeping in
5 the back seat. He's not dressed in full military regalia. He
6 doesn't have a flat vest. He doesn't have bullets. He
7 doesn't have all of that. He's got blue jeans on, a black
8 t-shirt and a camouflage sort of light-weight jacket.

9 Towards the end of the speech he gets up. He's
10 half asleep. He doesn't know what's going on.

11 I don't see how the Court -- excuse me -- how
12 the Government with a straight face can argue culpability on
13 someone who is half asleep.

14 And when Haug is bemoaning the fact that Stone
15 had this speech, Piatek doesn't say, hey, right on, yeah,
16 yeah. What does he say? Reschedule. Do it in the spring.

17 He thinks he's going to Knob Creek and that is
18 when the gun shoot is, in the spring, in April.

19 In terms of the officer, later in the
20 conversation, much later, Stone says I ought to pop him or I
21 will pop him, or whatever the words are, it's not certain, or
22 I should pop him. Again, Piatek doesn't jump up and say yes,
23 right on.

24 He talks about experiences with law enforcement
25 officers and chastises Stone, tells him he -- and I reference

1 it in my brief -- that he's not right.

2 And he talks about, yeah, officers are like
3 other people. Some of them are good; some of them are bad.

4 So, how does that equate to joining yourself
5 with a conspiracy for sedition against the United States?

6 You have to infer that he believed that Stone
7 was sincere. He had to infer from that that this Hudson
8 officer was going to have a funeral where federal law
9 enforcement officers were coming. Have to infer from that
10 that there was going to be a -- some type of action at the
11 funeral procession, and infer from that that, from that, it
12 was going to somehow oppose by force the authority of the
13 United States.

14 But the United States Supreme Court in the
15 Ingram and Direct Sales case advise us that you're not
16 supposed to pile inference upon inference upon inference.

17 And we have to remember, Piatek is never present
18 for any of the earlier discussions. Haug admitted that he was
19 never present for any of the April op. discussions.

20 Again, how can he be held culpable for something
21 that he doesn't know anything about?

22 Then in questioning from the Court, Mr. Light
23 went back to -- excuse me -- the training on June 13th where
24 some devices were set off, and the Government took the
25 position that what was set off was somehow a destructive

1 device.

2 And I will join in the arguments previously
3 given. And I'm going to beg the Court's indulgence, because
4 some of this may be duplicative, but just so the record is
5 clear.

6 2332(c)(2) defines weapons of mass destruction.

7 And paragraph capital (A) says:

8 "Any destructive device as defined in
9 Section 921 of this title."

10 So, if we look at 18 USC 921(a)(4), the term
11 destructive device means -- and then it goes on, and then it
12 states later in the paragraph:

13 "The term destructive device shall not
14 include any device which is neither designed
15 nor redesigned for use as a weapon."

16 My recollection of the testimony on June 13th
17 was, is that attached to a trip wire, or what have you, there
18 was some powder in a cardboard tube that was set off to show
19 what could happen if you set off a trip wire.

20 And this was not cited in my brief, and I thank
21 Mr. Thomas for giving the case, United States v. Hammond, 371
22 F.3d 776, an Eleventh Circuit, 2004 case.

23 Now, admittedly, that case dealt with some Title
24 26 offenses, but what was at issue is the definition of the
25 same phrase "destructive device" and used some of the same

1 language from 921 about having to be designed as a weapon.

2 And on page -- it's pages 780 and 781, it talks
3 about a cardboard tube, that it's got some powder in it, and
4 affirms the district court's granting of a Rule 29 motion
5 because there was no demonstration that either the powder or
6 the tube was designed to be a weapon and therefore not a
7 destructive device.

8 So, again, we have nothing on June 13th, 2009
9 which would demonstrate that Mr. Piatek was associating
10 himself with either a seditious conspiracy or a conspiracy to
11 use weapons of mass destruction.

12 I think what is most telling is when a pipe is
13 brought out and it's talked about -- first of all, I
14 respectfully submit it's no different than the simulated
15 grenades that were used at the SMVM. But most importantly, in
16 front of all of these people that are there -- and there's
17 probably 20 of them. They are not all charged. What does
18 Mr. Piatek say? "I never" -- and he repeats, "I never, I
19 never fuck with shit like that."

20 Now, if that is not a disavowal of anything
21 having to do with explosives, then I don't know what is.

22 And even though the Sixth Circuit in 303
23 Paragraph 3 doesn't require that, there is an overt clear-cut,
24 no doubt about it statement, "I don't fuck with shift like
25 that." He is not involving himself with anything like that.

1 And there may be some questions about what you
2 do with them, but he is not going to involve himself with
3 that. He is not going to join if there is. If there is
4 something down the road, he is not going to be involved in it.

5 Mr. Light talks about, well, that he continued
6 to come up after February 6th, 2010.

7 He is unheard of after February 6, 2010.

8 There's no e-mails. There are no telephone conversations.
9 There are no meetings. There are no trainings. There is
10 nothing between Mr. Piatek and the rest of the Hutaree after
11 that date.

12 In fact, on the November 7th training, when
13 Stone tells him to get his head out of his rear, he doesn't
14 even come to anymore training sessions. He's not there for
15 the weddings. He's simply not there.

16 So, according to Mr. Light, he's gone, he's
17 left, and there is nothing there for him to be involved in.

18 I recognize that the Court can -- that the Court
19 is supposed to look at the evidence in the light most
20 favorable to the Government and make reasonable inferences,
21 but they are not supposed to be specious inferences.

22 He wasn't aware of the conspiracies. They
23 weren't discussed around him, and there is not even a
24 scintilla, but there's definitely not more than a scintilla of
25 evidence of his participation in either one of the charged

1 conspiracies.

2 And since the two 924(c) counts of August 22nd,
3 2009 are predicated upon his committing crimes of violence in
4 Counts 1 and 2, that those counts would go as well.

5 THE COURT: Counsel, I need to take a break
6 until about 3:30, if you would.

7 MR. THOMAS: How many minutes, Judge?

8 THE COURT: 3:30.

9 *(Recess held from 3:19 p.m. until 3:31 p.m.)*

10 THE COURT: What pages is it?

11 MR. THOMAS: It is ID36 and it was Exhibit 24.

12 MR. SWOR: It's Exhibit 24.

13 MR. THOMAS: And we have that here.

14 THE COURT: What pages of that exhibit?

15 MR. THOMAS: Right here, Judge, in the exhibit
16 book.

17 THE COURT: Okay.

18 MR. LIGHT: It is 24A-N.

19 THE COURT: A-N, you said?

20 MR. LIGHT: N as in Nancy.

21 THE COURT: N as in Nancy.

22 MR. THOMAS: Judge, I was looking at pages 100,
23 101, in that area.

24 THE COURT: Is that it, Mr. Light?

25 MR. LIGHT: Yes, it is.

1 THE COURT: 100 to 101?

2 MR. LIGHT: 100 through . . .

3 MR. THOMAS: I got 103, as far as that in
4 my . . .

5 MR. LIGHT: Well, I think to take it in context,
6 it really is necessary to go through the rest of the exhibit,
7 106.

8 THE COURT: Okay. Pages 100 through 106.

9 MR. THOMAS: All of which we're admitting and I
10 have no objection.

11 THE COURT: Are you going to talk about that?

12 MR. SWOR: I'm going to talk about Exhibit 24,
13 yes.

14 THE COURT: Those pages specifically?

15 MR. SWOR: I don't know. I don't think so.

16 THE COURT: Well, those are the pages that
17 supposedly this whole thing got started, right?

18 MR. SWOR: Not those -- well . . . okay, yeah.

19 THE COURT: That's what Mr. Light said.

20 MR. SWOR: Yeah.

21 THE COURT: And I want to make sure I'm focused
22 on the right conversation.

23 Do you agree, Mr. Thomas? Since it involves
24 your client also.

25 MR. THOMAS: I thought it was so important, I

1 discussed it when I talked to you about my Rule 29.

2 THE COURT: Okay. 100 to 106. Okay.

3 MR. SWOR: I am going to be a little herky jerky
4 because I'm going to try to jump over things that other people
5 have said and I am trying not to repeat anything they have
6 said.

7 But first and foremost -- and this will come to
8 no surprise to you -- this will come as no surprise to you --
9 I believe that there is no conspiracy here.

10 There is no agreement to do any act, general or
11 specific, other than talk, other than train, other than to
12 associate with people.

13 And talking and training and associating with
14 people implicates the First Amendment and the freedom of
15 speech. And speech cannot be taken in bits and pieces. It
16 must be taken as a whole.

17 The Court is not bound by the Government's
18 representation of what the evidence is. Just because
19 something says something on its face does not mean the
20 Government's interpretation is correct.

21 This is all speech. It is all conditional
22 speech. And it is all in the context of Mr. Stone's religious
23 tenets. And that tenet was that at some time, indefinite in
24 time, that the antichrist would come and that David Stone
25 would be called upon to defend his family, and that he was

1 teaching and helping other people of a similar view train to
2 protect their families. At an indefinite time, in an
3 indefinite place and in an indefinite manner.

4 You heard already one reference to biblically,
5 but during my examination of Mr. Murray, Mr. Murray conceded
6 that in February of 2009, all of Mr. Stone's speech was in the
7 context of his religious beliefs.

8 In June of 2009 it was always in the context of
9 his religious beliefs.

10 In August of 2009, yea verily, even August 13th,
11 2009, you will see -- and I would ask the Court -- and I know
12 it's a burden -- but to listen to the entire tape, not just
13 the snippets and cutouts that the Government drew the Court's
14 attention to, but pull the whole transcript from page one on
15 to the end past -- I think it's page 126. And you will see --
16 and I'll loop back to it in a second, Judge. But that whole
17 conversation is surrounded by, wrapped in, encompassed by and
18 permeated by Mr. Stone's belief and his plan for the battle at
19 the end of time.

20 In December at his own wedding he talks about --
21 his wedding or Josh's wedding. But in any event -- since I --

22 Let me go to the next point, which is January of
23 2010 when Steve asks him -- well, actually he doesn't even
24 wait for Steve to ask him. If you will recall, Your Honor --
25 and we played it. But they are in the workshop area for two

1 minutes. Okay, while Steve shows David Stone and Tina Stone
2 his workshop area -- because I'm lefthanded, I do things
3 backwards because it's over there -- David looks at something
4 he has in the closet.

5 They leave that closet and they go into the next
6 room where they sit on the floor. And, sitting on the floor,
7 Mr. Stone never mentions that workshop again. In fact, what
8 he talks about, he immediately goes to the biblical time, the
9 end of time, the Hutaree Bicycle Squad.

10 The plan was always Jesus versus Satan. His
11 speech at Josh's wedding, when he describes the Hutaree
12 uniform, he talks about we wear these stripes because, by His
13 stripes, we are saved.

14 We talked about that. I asked Agent Haug about
15 that, and he agreed with me that when David Stone was talking,
16 he was talking about the battle at the end of time.

17 The plan was always Jesus.

18 Mr. Light -- I'm sorry. The Government says
19 that this was a general plan to do a violent act to draw the
20 attention of law enforcement. Okay.

21 What do we know for sure?

22 We know for sure that on February 6, 2010 in the
23 car, Mr. Stone says we will not fire the first shot.

24 On February 6th, when Agent Haug tries to
25 provoke Mr. Stone and say why don't we hit them first and hit

1 them hard, Mr. Stone says no.

2 How would it start? It never starts with David
3 Stone.

4 The conversations -- you know, we heard this
5 morning from the Government about repeated discussions,
6 quote-unquote, about the need to oppose the Government.
7 Repeated discussions about the need to oppose the government
8 are constitutionally protected speech. There is nothing
9 illegal about talking about opposing the government.

10 If you'll recall, on February 20th, 2010,
11 Mr. Stone says there are a hundred and one scenarios that
12 could start this thing.

13 If you'll recall, we've heard taking away our
14 weapons, taking away our religion, forcing vaccination,
15 forcing vaccination with computer chip. It always starts with
16 some other thing. There is never a time when David Stone
17 says, you know what -- when David Stone says the ATF is
18 looking into our business. Okay? And if they push, we'll be
19 ready. He does not say we will attack them.

20 We will answer the call.

21 He never threatens with force or violence to
22 attack the Government.

23 The reason the Government suggests, I believe --
24 the Government today says that this was intended to draw the
25 Government into challenging them is because Magistrate Komives

1 said that the plan to do a violent act to draw the attention
2 of federal law enforcement, dot, dot, dot, if the
3 evidence -- not the Government's argument, but if the evidence
4 does not establish the second goal of the conspiracy, Baldwin
5 requires Defendants be acquitted.

6 That's Docket Entry 269, page nine.

7 And it has to be designed to provoke a
8 confrontation with local, state, and federal law enforcement
9 for the purpose of engaging them in an armed conflict.

10 The fact that twice in a period of 20 months or
11 18 months there was passing conversation, with no antecedent
12 and no activity afterwards, does not excise those two pieces
13 of conversation from the greater context and does not make
14 them, in and of themselves, a conspiracy.

15 There is no continuing plan.

16 On August 13th, if you go through the entire
17 transcript, you will see that the conversation the Government
18 played starting at page seven -- okay? But if you go back to
19 the very first page -- and there's a lot of unintelligible in
20 the transcript, but you will see that the conversation is
21 initiated by Stephen Haug, and it's initiated to talk about
22 the foreign troops occupying U.S. bases. You will see that
23 Mr. Stone says, well, we've got Selfridge for now. Selfridge
24 is safe for now. Okay?

25 And then rather than let it go, Agent Haug ramps

1 it up and says, well, you now, we've got this air base in New
2 Jersey and it's a very big air base and we're worried about
3 the Germans taking over. There are foreign troops taking over
4 that.

5 And that leads into where the Government began
6 to play Exhibit 24.

7 So, they put it -- you know, they talk today
8 about it being in context, but they start that conversation
9 out of context. And they --

10 Remember, that is not a training session. Agent
11 Haug drops in. Okay?

12 Now, they never record or play for the Court
13 what Agent Haug said to Mr. Stone when he told him he was
14 coming over. So, we don't know.

15 We do know that in his redirect-examination
16 Mr. Haug tried to make it look more suspicious by saying I
17 told him I had some stuff that my buddies in New Jersey want
18 me to detonate for him. That was his words on redirect. That
19 was on April 15th.

20 In fact, if you look at the transcript, it says
21 no such thing. Okay?

22 In fact, if you listen to the recording and you
23 watch the transcript and review the transcript, David Stone is
24 giggling when the explosion takes place.

25 Okay. Agent Haug is the one who suggests

1 putting that explosive material in something. Not David
2 Stone. David Stone does not ask, to that point -- okay.
3 Remember, Haug has been there now six months. He has known
4 them six months. During that six months, David Stone does not
5 ask Haug to do anything about explosives. Okay.

6 Haug decides, the Government decides, Leslie
7 Larsen decides, whoever decides, that they're going to
8 introduce larger explosives in here. And they commence the
9 activity.

10 Okay. The Government conceded, at least
11 initially the Government conceded that Count 2 is inextricably
12 intertwined with Count 1; that is, obtaining the weapons of
13 mass destruction for the purpose of Count 1. Okay.

14 THE COURT: You said the Government conceded
15 that --

16 MR. SWOR: The Government said this morning --

17 THE COURT: -- inextricably?

18 MR. SWOR: The Government said this morning that
19 the possession of the WMD information was obtained for the
20 purpose of Count 1. I can't cite the transcript.

21 THE COURT: No, I understand that.

22 MR. SWOR: Okay?

23 And then, as if they were playing David Stone,
24 they tried to change the line.

25 Okay. The line is moved. And one of the

1 problems with the Government's case is the line has always
2 been moving.

3 Back in April of 2010 -- Leslie Larsen sat on
4 that stand. Mr. Waterstreet was here. And they swore to the
5 Court that there was an imminent op. coming on in the second
6 week of April at which citizens who were not involved in this
7 were at risk of being injured. And that was the reason that
8 the Hutaree, David Stone, everybody else, were arrested. That
9 was the reason it was needed. That there was imminent danger.

10 And, yet, less than two weeks ago -- that was
11 the line. That was the line they drew.

12 Less than two weeks ago, okay -- well, actually
13 going all the way to the beginning of the trial. But less
14 than two weeks ago, Agent Haug told us that he knew in
15 January, on January 14th when David Stone is telling him for
16 the first time about the Knob Creek shoot, okay, but certainly
17 by February 20th, which is a month and a half before the
18 take-down, that there was going to be no training op. on the
19 second week of April; that this was a tuck-and-hide training
20 session and that it was a recon training session and that the
21 purpose of it was to be invisible. Those are all things we
22 heard during this trial which contradict the Government's
23 drawing of the line.

24 Let me get back to Exhibit 24. And I'll come
25 back to this. August 13th, when the Government says . . .

1 David Stone, according to the Government, says
2 he wants shaped charges to take out convoys.

3 Now, that's at the very end of the conversation.

4 And during my examination -- and, by the way, if
5 you are looking at the transcript, it would be pages 119,
6 roughly, to 123. Okay.

7 Agent Haug admits that that conversation is
8 about the battle at the end of time. When I cross-examined
9 him on March 16th, he conceded that fact. In fact, he
10 conceded that fact again on January 14th.

11 The Government says that this was an
12 evolutionary plan, that it evolved to the point that on
13 February 20th, blah-blah-blah-blah-blah-blah.

14 Well, the fact is you can cut and paste the
15 conversations of August 13th, that short couple of pages, with
16 all of the nonsense on February 20th. And there's no
17 evolution. Except for the addition of strippers, there's no
18 evolution. There is nothing in between April 13th and
19 February 20th that shows any kind of action.

20 Remember, in Exhibit 1016A -- I'm sorry -- the
21 Government's 707. Okay. That focused on action. Okay.

22 There was no action. As 1016 -- the profilers
23 got it right, okay, when they said holding pattern. There was
24 no evidence -- and you've got the exhibit. So . . .

25 The Government says that -- today the Government

1 says that convoys can include funeral processions. Okay.

2 Okay. Well, on August 13th, pages 119 to 123,
3 David Stone is talking about shape charges, convoys and
4 Bradley and Abrams tanks. "I can't remember the last time I
5 saw a Bradley or Abrams tank in a funeral procession."

6 The Government's argument is wrong. There is
7 nothing in any of these transcripts to suggest that a convoy
8 includes a funeral procession.

9 The Government says that on January 14th
10 Mr. Stone is at the warehouse and he says "We ain't that far
11 off."

12 What he's talking about is being prepared for
13 the final battle. It's the same thing he said during the
14 entire 20 months.

15 On the transcript of March 15, 2012 at pages 50
16 and 51, Agent Haug admitted that Mr. Stone was talking about
17 the battle at the end of time. Okay.

18 49 K, the discussion about killing officers and
19 then going and killing their families, that's in the context
20 of the battle at the end of time. Okay.

21 The Government said this morning that there were
22 additional signs. Now, I'm not talking about signs from on
23 high, but they are talking about street signs.

24 The Government says they were obviously brought
25 for Steve.

1 If you will listen to the recording on March 27,
2 2010 -- I do not have with me -- Steve asks Dave Stone do you
3 have anymore signs? And David says no.

4 So, clearly, those signs were not for Mr. Haug.

5 The Government says there were other ways of
6 provoking a response.

7 Nowhere does the Hutaree or Mr. Stone or anyone
8 else here advocate provoking a response from the Government.

9 March 1st, 2012, pages 33 and 34 of Dan Murray's
10 testimony, he testified, he admitted this was always in the
11 context of Mr. Stone's religious beliefs.

12 And, yes, one of my brother counsel said,
13 February 12th, 2010, Leslie Larsen says in an e-mail we're not
14 going to put all this time and effort to come away with three
15 gun charges.

16 Okay. March 18th, 2010, Exhibit 65 -- it's
17 either E or F -- when Stephen Haug is trying to provoke Dave
18 Stone. And if it's not Exhibit 65, it's Exhibit 63 -- when
19 Haug is trying to provoke David Stone, remember he says when
20 do you want these shape charges. And David says "When you get
21 to it." Okay.

22 The Government tried -- he tried to change it
23 and say "As soon as you can get to it," but it doesn't say
24 that. It says "When you get to it." Okay.

25 When do you want the first one? "When you get

1 to it."

2 When do you want the rest of them? Okay. Four
3 or five, six months. We've got that much time.

4 So, now we are to the end of 2010.

5 And David Stone says -- and if you'll look at
6 that series of questions where he says, well, do you have a
7 priority? No. Do you have a target? No. Do you have first
8 preference? No. At the very beginning of that David says,
9 "Yeah, when you get 'em, I'll put 'em in storage so we'll be
10 prepared." Okay.

11 The crux of the WMD count is they have to be
12 intended to be used. And The American Book Sellers
13 Association v Hudnut, 771 F.2d 323, which is a case I should
14 have remembered, but I didn't until over the weekend, at page
15 329, "Seditious libel is protected unless the danger is not
16 only grave, but also imminent," citing New York Times v
17 Sullivan, Brandenburg v Ohio.

18 There was never any imminence. And later on in
19 the same opinion, the Court says "Cases such as Brandenburg v
20 Ohio and NAACP v Claiborne Hardware hold that a state may not
21 penalize speech that does not cause immediate injury.

22 Okay. So, there has to be an immediacy here.

23 There's clearly no immediacy. There's no intention.

24 And the Government can say, you know, well, they
25 intended to, but sometime in the indefinite future.

1 That's wishful thinking, you know. That's like,
2 oh, when Mr. Stone says if I come into a lot of money, we
3 won't have to do any training. Okay. If, if, if. This is
4 all conditional. There is never anything fixed in this. It
5 is all talk.

6 We can tell about the immediacy thing, okay,
7 because on January 14th Mr. Stone is saying to Agent Haug --
8 you know -- well, they are sitting on the floor there. You
9 know, I'm not in a hurry for this. I'm not in a hurry for
10 this. The battle at the end of times. I'm not in a hurry for
11 this. Because I like to throw the log on the wood burner and
12 take a nap. And when this comes, we're not going to take any
13 naps. All right.

14 Exhibit 34 -- and I apologize, but I told you
15 this was going to be kind of herky jerky. Exhibit 34,
16 September 13, 2009, pages 48 and 51, Mr. Stone describes this
17 battle as the battle between Jesus and Satan.

18 Exhibit 7, February 1st, 2009, page 48, the goal
19 is this is a battle between Jesus and Satan.

20 January 14th when Agent Haug gets the
21 conversation going again about dynamite --

22 THE COURT: About what?

23 MR. SWOR: Dynamite. Okay? David Stone talks
24 about how a farmer he knows used dynamite to dig a pond, to
25 blow up a hole to dig a pond. Okay?

1 January 14th, 2010, when David Stone is talking
2 about the feds. being active, when he's talking about the
3 February 6th trip to Kentucky, he's talking about the fed.
4 activities. Okay. He says we got to take our blowout bags.
5 We got to be ready -- and, by the way, this will tie into that
6 e-mail that followed it. But we got to take our blowout bags.

7 He doesn't say so we can attack anybody. He
8 says if anything goes wrong, we're going to have to disappear.
9 Okay. We're going to have to disappear and survive.

10 He doesn't say we're going to attack the
11 Government. He can be as paranoid about the government as he
12 wants to be. He doesn't say we're going to attack the
13 government. In fact, he doesn't even say that if something
14 goes wrong, it will be because of the government.

15 Okay. The Government was trying to tell the
16 Court its version of what David Stone thinks. Okay.

17 Now, it's the evidence, not what the Government
18 argues. So, even if the evidence is taken in a light most
19 favorable to the Government, that doesn't say that the
20 Government's argument prevails.

21 It is looking at the evidence. And the evidence
22 is there was no specific to any government; the Blue Helmets,
23 the local sheriff or whoever that was, the ATF -- wait a
24 minute. Wait a minute.

On June something 2009, Mr. Stone says -- June

1 13, 2009, page 14 of the transcript. "Europe will be the Army
2 we are going to fight."

3 You hear the Blue Helmets. We've heard the Blue
4 Helmets.

5 In the video that Leslie Larsen said that she --
6 that concerned her so much, that she started this
7 investigation, we saw a blue helmeted soldier. Okay. The
8 Michigan Militia, the SMVM all talk about the Blue Helmets.

9 They are not local law enforcement. They are
10 not the federal government. Okay.

11 June 13th. On his redirect of Agent Haug,
12 Mr. Graveline talked about June 13th. And Haug referred to
13 what was exploded as a training device; not a destructive
14 device, not a weapon of mass destruction.

15 By the way, page 51, I believe, on February 6th
16 is the discussion of why don't you hit them first. And as
17 Mr. Thomas pointed out, he was talking about Interpole --
18 Mr. Stone said, no, we don't go after the state police. State
19 police are interpole. Okay?

20 So . . .

21 Mr. Stone talked about he was angry, he was
22 frustrated. He never threatened the U.S. Government.

23 One of the speeches that's in evidence -- and
24 forgive me. I can't point it out to you. But he talks
25 about -- the one where they're talking about how bad the

1 economy is, he's talking about if people don't take care, they
2 won't be able to pay their income taxes.

3 Okay. For somebody who is antigovernment,
4 worrying about not being able to pay their income taxes is a
5 little congruous.

6 He talks about not being able to pay your
7 property taxes. He doesn't say we won't have to. He says you
8 won't be able to.

9 He recognizes the government. He does not
10 oppose it.

11 I would also ask the Court to remember that on
12 June 26, 2009, Agent Haug and that recording that we put in on
13 cross-examination, said that David Stone was afraid of big
14 explosives. That's Exhibit 20, pages I think it was 115 to
15 117.

16 Page 43, shortly after -- you know, that's when
17 Agent Haug -- August 13th, 2009. Okay. Agent Haug explodes
18 the mixture, and then Agent Haug suggests putting the
19 explosive in something. And right after David Stone says
20 "cylinder," he goes back to talking about making smoke bombs
21 and using rocket launchers.

22 He only discussed signs, Your Honor, street
23 signs as blast shields.

24 David Stone does not talk about using those as
25 shrapnel. He talks about blast shields.

1 The agent is the one that says shape charges.
2 Pages 114 of August -- through 123 of August
3 13th, David Stone is talking about the battle at the end of
4 times, need for biodiesel, using divining rods to find water,
5 starting society all over again, abandoning in Michigan.

6 David Stone talks about the Hutaree having
7 helicopters. Okay. He talks about Bradley and Abrams tanks.
8 David says he's got guys who can fly F-15s and Apaches. Yes.
9 And then he says at page 122, 123, the shape charges were to
10 stop those convoy lines. Okay.

11 MR. THOMAS: Your Honor, may I have one moment,
12 please?

13 *(Off the record.)*

14 MR. SWOR: By this point, in the battle at the
15 end of times, the Bradley and Abrams tanks are on the side of
16 the Hutaree, and the convoy lines that are being interrupted
17 are the supply convoy lines. They are opposing them.

18 This is not the United States Government. This
19 is Satan's Army.

20 Page 121, Your Honor. It's very specific.

21 THE COURT: Page 120 what?

22 MR. SWOR: Page 121.

23 That by this time -- and tanks are mentioned I
24 think a couple of times during this. But by this time in the
25 battle at the end of time -- you know, the F-15s are on the

1 side of the Hutaree. The helicopter is on the side of the
2 Hutaree. The Bradley and Abrams tanks are on the side of
3 Hutaree. This is clearly the battle of the end of times. And
4 that theme repeats itself through every conversation.

5 The fact that there are these two isolated
6 conversations which include the discussion of shooting a
7 police officer and attacking a funeral does not make it a
8 conspiracy.

9 There -- you know, one of the things that we've
10 learned about Mr. Stone during this case is that he's a very
11 good parrot. Okay. During the February 20 -- no. During one
12 of the conversations when -- maybe it is February 20th.
13 Maybe -- no. No. You know what? It's the March 18th
14 conversation where Steve says to him, how hard can it be to
15 get signs? Just back up a -- you know, put a chain on the
16 sign and pull it out with your truck.

17 And David Stone says, oh, no, don't do that,
18 because they fly out of the ground and break the back window
19 of your vehicle.

20 Now, that was not a new idea to David Stone. As
21 a matter of fact, on February 20th someone else had that idea.
22 Okay. Someone else made that statement. And David just
23 parroted.

24 So, the fact that David Stone says something in
25 February that somebody else said in August doesn't mean that

1 it's a conspiracy.

2 There is no agreement. There is no strategy.

3 There is simply these two isolated conversations. They are
4 not a conspiracy. They are not, as the Government described
5 in its opening statement, a plan.

6 Taking the evidence -- not the Government's
7 argument -- taking the evidence even in a light most favorable
8 to the Government, what went on here was speech. What went on
9 here was association. What went on here was constitutionally
10 protected activity.

11 There was no conspiracy. There was no plan to
12 do anything.

13 You know, God rest his soul, my uncle was very
14 upset when John Kennedy was elected President. And my uncle
15 lived in the flight path of the -- the landing path of what we
16 call today Air Force One. And my uncle used to say, one of
17 these days when that plane flies over, I'm going to get my gun
18 and I'm going to shoot it.

19 I never saw a gun. My uncle would never have
20 shot the plane. But he said it.

21 Does that mean that he intended to do it? Does
22 that mean that my aunt, who heard him say it numerous times
23 and didn't move out of the house, conspired with him?

24 Of course not.

25 Does that mean that my father, who heard him say

1 it and brought his family over to visit multiple times after
2 that statement or while he made it again, were conspirators to
3 assassinate the President?

4 Of course not.

5 There's nothing here but talk. Counts 1, 2, 3
6 and the 924(c) charges should all be dismissed.

7 THE COURT: Thank you.

8 Do you have a response, Mr. Light?

9 MR. LIGHT: Yes, Your Honor. Give me a minute
10 to bring a few things.

11 THE COURT: I'm sorry?

12 MR. LIGHT: Could I have a minute to bring a few
13 things forward?

14 THE COURT: Okay.

15 *(Brief pause.)*

16 MR. LIGHT: What we've heard from Mr. Swor and a
17 large part of what we've heard from others is what I believe
18 is an argument about the interpretation of the evidence, an
19 argument about Mr. Swor's interpretation, his understanding of
20 what the evidence means as opposed to what the Government
21 argues that the evidence means. And he has pointed to very
22 specific things of the evidence and given his interpretation
23 of what it might mean in conjunction with the charges in this
24 case.

25 And I submit to the Court that that doesn't

1 address the question of the sufficiency of the evidence to
2 support the charges when viewed in the light most favorable to
3 the Government so that they could be submitted to the jury.

4 For example, just a specific example. In my
5 argument, I pointed to the fact that when Mr. Stone drove to
6 the warehouse in Ann Arbor on March 27th, he had signs, five
7 street signs in the back of his car.

8 And Mr. Swor says, oh, those couldn't have been
9 for the person who had the warehouse that Mr. Stone was
10 driving to because a day or a few days earlier he had said he
11 hadn't gotten any signs.

12 Well, that's his interpretation and he's
13 entitled to it. But I think the Government is entitled to
14 argue and the evidence would support the proposition that
15 those street signs being brought to that warehouse were for
16 that very purpose of continuing to support the building of
17 EFPs.

18 Similarly, he talks about the April op., the
19 Real World op. that was planned for April and holds up four
20 fingers one at a time and says, well, it was a tuck and hide,
21 be invisible. And I forget the rest of his fingers.

22 But if you listen to the statements made by
23 David Stone, Sr. and by Joshua Stone on January 9th, in
24 separate addresses to their fire teams and other people who
25 were there at the time they gave those addresses, they speak

1 very graphically and very specifically about the fact that
2 these Real World Ops. could involve conflict with anyone who
3 would come tripping along.

4 Language like "welcome to the world of killing
5 people." Language --

6 THE COURT: But they didn't talk about killing
7 federal officials.

8 MR. LIGHT: But I'm addressing the broader
9 question of interpretation of the evidence. And Mr. Swor
10 wants to take one view, and we want to take another view.

11 And our view would be that this -- even though
12 it wasn't specifically about killing officers -- was an aspect
13 of the conspiracy in terms of the training for the conflict
14 that would follow the killing of an officer and the bringing
15 in of federal authority that would then be opposed.

16 So, it is an aspect of the training of the
17 conspiracy. And I'm simply addressing the question that Mr.
18 Swor has one interpretation and the Government has another.
19 And just because his interpretation differs, doesn't mean the
20 Court must disregard our interpretation.

21 They talked about the need to wipe down every
22 shell that would be brought along on the April op. so as not
23 to be discovered if anything happened.

24 So, it's a matter of interpretation and
25 argument.

1 And that's quintessentially what means the case
2 needs to be submitted to the jury if there is sufficient
3 evidence.

4 THE COURT: Mr. Light, talk a bit about the
5 inferences upon inferences, that so many of the lawyers have
6 mentioned today and also in their briefs.

7 MR. LIGHT: Well --

8 THE COURT: And just use the example that you've
9 just pointed out; that they talked about wiping down shells or
10 bullets, whatever, so that there would not be any evidence.

11 What if they did do that? What if they did talk
12 about not leaving evidence of a crime that doesn't involve an
13 attack on federal officials?

14 MR. LIGHT: That specific act, that specific
15 aspect of the training did not involve an attack on federal
16 officials, but it was part of the conspiracy.

17 As I think the Court has pointed out before, not
18 every overt act -- not every act in furtherance of the
19 conspiracy need be illegal, nor need it be specifically with
20 regard to the object of the conspiracy in terms of opposition
21 to federal -- to the authority of the United States
22 Government.

23 Count 1 lists a variety of things that were
24 being done or that were part of the activities of the Hutaree
25 to prepare for the consequences of taking the action that they

1 intended to take to bring about the confrontation with the
2 authority of the United States.

3 THE COURT: But there is no -- in the end,
4 Mr. Light, there isn't any direct evidence of this conflict
5 that they intended to trigger with federal officials.

6 MR. LIGHT: There is evidence --

7 THE COURT: It's all circumstantial.

8 MR. LIGHT: Well, no.

9 It's evidence in the words of the Defendants,
10 the words and conversations of the Defendants about what they
11 intended to do. And it's those conversations, combined with
12 actions, combined with the actions of obtaining weapons,
13 combined with the actions of obtaining ammunition, combined
14 with the actions of seeking to obtain explosive devices that
15 could be used in attacking a convoy.

16 It's the words, the conversations, the
17 agreement, combined with the actions, that constitute the
18 conspiracy.

19 Words have consequences.

20 THE COURT: I understand that. But it is also
21 the words.

22 You talked about the number of times that
23 members -- that some of these Defendants talked about their
24 opposition to the Government. And they did -- to the federal
25 government. They did do that.

1 They are entitled to oppose the Government with
2 their words. And they did do that.

3 It's still unclear to me, after hearing all of
4 these arguments for this entire day, how that speech -- how
5 that speech crossed the line into becoming illegal and how I
6 get there without building all of these inferences on
7 inferences.

8 How do I get to where you want this Court to be
9 and not dismiss these conspiracy charges?

10 MR. LIGHT: You get there most specifically by
11 looking at the conversations on August 13th of 2009 and
12 February 20th of 2010.

13 And I'd like to go a little bit further into
14 those conversations, because they have been perhaps taken
15 somewhat out of context.

16 *(Brief pause.)*

17 THE COURT: While you are trying to answer that
18 question, Mr. Light, the other thing that I have a big
19 question about is the point that you made earlier that it
20 wasn't necessary for everyone to have been drawn into a
21 discussion to kill a local law enforcement officer. Only
22 that -- I think these were your words -- only that a number of
23 discussions ensued to oppose the Government by force, and that
24 there would be -- somehow, something was going to happen --
25 I'm not sure what that something was -- that other people

1 talked about that was going to trigger this response.

2 MR. LIGHT: I'm not clear exactly on the Court's
3 question.

4 THE COURT: Well, Mr. Graveline pointed out in
5 his opening argument, opening statement, that it was the
6 killing of the police officer and the funeral procession.

7 It sounds to me like you're saying that's not
8 all. That we have presented evidence of other things, not
9 just attacking a funeral procession, and that those other
10 things don't necessarily involve the killing of a police
11 officer, but there were other things, and that there didn't
12 have to be a discussion that the Defendants participated in
13 that involved the killing of a police officer.

14 Didn't you say that?

15 MR. LIGHT: (No response.)

16 THE COURT: And that there were just more
17 general discussions about opposing the Federal Government by
18 force?

19 MR. LIGHT: Well, if I said that, it was not in
20 the -- I didn't mean to say that simply stating an opposition
21 to the Federal Government would amount to opposing the Federal
22 Government by force. And if that's the way it came out,
23 that's not what I intended to say.

24 THE COURT: Well, that's how I heard it. And I
25 thought you said also that these other things were going to --

1 whatever they are, are going to trigger a response so that
2 they could then oppose the Government by force. And it's not
3 the funeral procession.

4 MR. LIGHT: Well, I think the other things were
5 the other kinds of things listed in Paragraph 3 of Count 1,
6 which were other ways of killing a police officer.

7 There's a list of various ways in which they
8 might provoke that response without killing a police officer
9 and then attacking the funeral. That was the last clause in
10 Paragraph 3 of Count 1. But earlier in Paragraph 3 of Count 1
11 there are listed a variety of other ways of attacking or
12 killing a police officer that I would submit could provoke a
13 response that would result in federal authorities being
14 involved and the Hutaree opposing that authority by force.

15 THE COURT: I know what's in the indictment. I
16 know what's in the indictment.

17 And you are about to direct me now to
18 conversations that still involved the discussion of the
19 funeral procession.

20 MR. LIGHT: That's what I am --

21 THE COURT: So, is that what I'm to be focusing
22 on? Are you telling me that there are other things that these
23 Defendants agreed to do to trigger this response?

24 MR. LIGHT: I'm going to focus on the funeral
25 procession, Your Honor.

1 Looking at Government Exhibit 24 N, and starting
2 on page 100, David Stone says: "But the Brotherhood is our
3 problem. Once we take those guys down, the rest of it will
4 come."

5 The agent says: "That's a big Army across the
6 country though."

7 Stone says: "650,000."

8 Josh Stone says something unintelligible, and
9 someone else says something unintelligible.

10 David Stone: "That's what they say their
11 numbers are."

12 The agent: "Yes."

13 David Stone: "650,000 strong in the
14 Brotherhood. 650,000. And when everyone starts shooting,
15 your numbers are going to fall real fast to 150,000."

16 The agent: "Probably."

17 Stone: "Because half a million of them going to
18 say, hmm, die for a paycheck or protect my family. Because,
19 oh, that's right I've been tasering these guys and beating the
20 crap out of these guys and they know where my family lives."

21 The agent: "Yeah."

22 Stone. "Bye-bye, I'm going home."

23 The agent. "Mm-hmm."

24 An unidentified male: "Yeah."

25 Stone: "Which is great. Oh, you are going to

1 hide in your house?"

2 Josh Stone makes a bomb noise.

3 David Stone: "Just throw some" -- saying
4 something unintelligible.

5 Josh Stone: "Bye-bye."

6 David Stone: "Take that torch. Throw that
7 torch on there and your house is on fire. You going to come
8 out or you going to die inside? Remember Waco? You guys beat
9 your chest and thought Waco was so great."

10 Josh Stone. "Yeah."

11 David Stone. "Now you get to see what the
12 Davidians see."

13 And it goes on. And I won't read 102, except
14 for the bottom.

15 David Stone says: "Got away with anything and
16 everything, and bragging because my dad's a cop. I can do
17 anything I want. My dad is a cop. So that means you know
18 what your daddy does. So, you are no better than your daddy.
19 And his wife, you think she sits up all night and she worries?
20 You know, honey, you shouldn't be doing what you are doing.
21 Heck no. She goes to sleep right next to him. Has peace and
22 comfort knowing it's not me that's going to get beat
23 tomorrow."

24 Agent: "Mm-hmm."

25 Stone: "She is as guilty as he is. That is a

1 terrible way to look at it, but they lump patriot families all
2 together.

3 Agent: "Yeah, they do."

4 Stone: "The wife and the kids are just as
5 guilty as their father and her -- you know, her the husband."

6 The agent: "Sure."

7 Stone: "Are they any different? And they are a
8 gang called the Brotherhood. You kill one, they come
9 together. Yeah, that's our bait. That's like, you know, you
10 say, ah, you know, yeah, you know, whenever you are going to
11 decide to go. We only got to kill one, and then we just
12 withdraw and wait three days."

13 Josh Stone: "I know where to go."

14 David Stone: "Because on the third day you know
15 where they're all going to be. You will have a thousand or
16 better."

17 The agent: "Mm-hmm."

18 Stone: "For one funeral. And they're all going
19 to be flocked together, and they are going to be boohooing and
20 crying, and they will be from all over the nation. That's
21 when we need our mortars. And then just, uh ..."

22 And Josh Stone: "How about pipe bombs with, ah,
23 ball bearings?"

24 David Stone: "And they just raining on top of
25 them."

1 Then Josh Stone makes noises.

2 And David Stone says: "All of a sudden, how
3 many you just kill? You think you're going to pack in for
4 another funeral? Now they won't support each other even at
5 funerals. Demoralize them. Attack them whenever they're down
6 and kick them in the teeth."

7 PP says: "Yeah."

8 David Stone: "Because they'll no longer" --

9 And then he goes into a discussion about a cop
10 that died in Mississippi.

11 Later on there's more reference to the Davidians
12 and what David Stone would have done if he had been in the
13 situation of the Davidians. And that's a link to federal
14 authority right now, because they know that Waco and the
15 Davidians was all about a federal attack -- or a federal
16 conflict with that compound in Waco, Texas.

17 One moment, Your Honor.

18 (*Brief pause.*)

19 MR. SATAWA: Your Honor, while he's looking, the
20 lot across the street closes at five o'clock. They have my
21 keys.

22 Could I have somebody run across, from my
23 client's family, to grab my keys?

24 (*Off the record.*)

25 MR. SATAWA: Thank you, Judge.

1 MR. WEISS: Thank you, Your Honor.

2 MR. LIGHT: Shall I proceed?

3 THE COURT: Yes, sir.

4 MR. LIGHT: Sorry for the hoarseness. Let me
5 get a glass of water.

6 *(Off the record.)*

7 MR. LIGHT: The February 20th conversation is in
8 Government Exhibit 59A-H, where 59H is the recording. And
9 using the transcript, starting on 217, there's a reference
10 to -- by David Stone to "Suicide by cop, man."

11 Michael Meeks says: "No. Copicide."

12 Joshua Stone chuckles and says: "Copicide."

13 David Stone says: "But if you are going to do
14 that, do it the smart way and start shooting them at a
15 distance."

16 Josh Stone says: "Get used to all of us."

17 David Stone says: "Increase the number that's
18 coming in after so you can increase how many you're killing
19 because you don't care any way."

20 And a few pages later on 222, this evolves into
21 this discussion that's about the funeral procession.

22 David Stone: "Or better yet, we shoot one from
23 a distance. High power rifle, you sit back, you take 'em out,
24 you go pop. You just shot one and you just kind of sit back.
25 They will pack out hunting for you, trying to find out who you

1 are. But they have this thing that everybody has, and it's
2 called a funeral. Now, for that funeral you have cops from
3 every state of the country come where? To his funeral. Now
4 they always go through a cemetery. Am I correct?

5 Meeks: "Yeah. Oh, yeah."

6 Stone: "They are right there. Right not just
7 take --"

8 Khris Sickles: "And they're focused."

9 Stone: "-- care of the situation. Kaboom,
10 kaboom."

11 Josh Clough: "When they had that funeral for
12 that one cop in Monroe and they're like they are going to have
13 to close down M-50 for the funeral procession and I'm thinking
14 wow."

15 Dave Stone: "IEDs."

16 Then he goes on: "I'm thinking IEDs. You just
17 blow the whole convoy up, kaboom."

18 Khris Sickles: "But that's not fair."

19 Josh Clough. "I was thinking more like
20 harassing as opposed to starting up -- I mean I don't want --
21 I wouldn't care which way."

22 But the discussion continues.

23 Dave Stone: "Start -- we can just -- we just
24 start killing 'em."

25 Josh Stone: "Yeah."

1 David Stone: "Every way we can, we just blow
2 them up."

3 Khris Sickles: "Sneak in their house, poison
4 their milk."

5 David Stone: "No, no."

6 Josh Stone. "We'll leave -- we will leave it to
7 Az. He wanted to play around with them."

8 David Stone: "You set the house on fire and
9 have another team sitting back and watching the local fire
10 department trying to come down the road, and there's a pop,
11 pop, pop, and then the truck goes kaboom, kaboom."

12 Khris Sickles: "So, they come running out."

13 David Stone: "Whenever he comes through the
14 front door, tries to open the front door to come out, pop,
15 pop, pop. You ain't leaving."

16 Josh Stone: "Welcome to Waco, buddy."

17 Khris Sickles: "Welcome to Waco."

18 MR. RATAJ: Well, Your Honor, he should read the
19 next two lines, because that is what we argue today. He's not
20 reading the next two lines.

21 THE COURT: What are the next two lines?

22 MR. LIGHT: The next two lines are:

23 "I mean there's a hundred and one scenarios you
24 can use."

25 An unidentified male says: "Welcome to Waco."

1 David Stone says: "Because they are their first
2 line of defense. I -- if we take that down -- I mean if
3 everybody was to join the band wagon and started shooting
4 cops, then what's left? Who went to Waco and burnt Waco down?
5 Oh, federal agents. Let's see, Kansas City SWAT. How many
6 other SWAT teams did we use? So, if we're taking out the
7 cops" --

8 The implication being that would bring in the
9 federal authorities. And that is exactly what he just said.

10 "Oh, federal agents. Let's see, Kansas City
11 SWAT. How many other SWAT teams ..."

12 I want to address a couple of other things as
13 well.

14 In Mr. Swor's argument, he pointed the Court to
15 portions of the recordings that have not been played or
16 admitted into evidence here.

17 And I have no objection to the Court looking at
18 whatever he can point to if he can specify it and provide it
19 to the Court.

20 But I would submit that that material is
21 available to the Defense to use in its defense. It has been
22 provided and it has been available.

23 And this is not a burden-shifting argument.
24 This is a matter of saying that for purposes of arguing and
25 submitting the case to a jury, we haven't tried to hide the

1 ball. What we've tried to do is to identify what we believe
2 are the relevant, material portions of the recordings without
3 playing more hours of recordings than we already have for the
4 jury.

5 That doesn't preclude the Defense from using the
6 same materials to support their arguments, but I would submit
7 that they can be supported before the jury as well.

8 Mr. Weiss -- and I just want to point to a
9 couple of more specific items that have been covered in the
10 arguments that I've heard.

11 Mr. Weiss pointed to a portion of a recording
12 where his client, Mr. Piatek, after being told about the
13 process for screwing the top onto a pipe bomb and how to avoid
14 setting it off in your hands, how you have to lubricate it.

15 And if you'll recall, when the expert testified
16 about how they went about it, even the experts said they reach
17 around a tree to do that so as to minimize the risk of harm to
18 themselves.

19 And I would submit that that's what Mr. Piatek
20 was talking about when he said I never F with that. What he
21 wouldn't F with is actually screwing a pipe bomb together.

22 And I would submit that's a fair wise thing.
23 But that doesn't mean he wouldn't F with using it or being
24 part of having somebody else put one together for use in
25 connection with activities that he's involved in.

1 And, in fact, the next three or four pages after
2 the one line that Mr. Weiss likes to quote, consists of a
3 detailed discussion between Mr. Piatek and Mr. Stone about
4 what goes into a pipe bomb, about fusing a pipe bomb, about
5 the shrapnel aspects of a pipe bomb.

6 So, it wasn't him disclaiming or distancing
7 himself from the concept of pipe bombs. At most, it was him
8 saying I'm not going to be the guy who screws it together.

9 MR. WEISS: But, Your Honor --

10 THE COURT: Was there any discussion at that
11 point about what the agent testified to as being his preferred
12 method, to hug a tree when doing something like this?

13 MR. LIGHT: You mean during the conversation --

14 THE COURT: Yes.

15 MR. LIGHT: -- on the tape?

16 THE COURT: Yes.

17 MR. LIGHT: No. No, there wasn't.

18 I was just using that as an example of why it's
19 a dangerous thing to do, based upon the expert testimony in
20 this case, and Mr. Piatek understood that it was a dangerous
21 thing to do.

22 THE COURT: Mm-hmm.

23 MR. WEISS: Your Honor, while Mr. Light is
24 looking for his next remark, I would invite the Court to look
25 at the transcript. Because it's not just that. He says, "I

1 don't fuck with shit like that," meaning the entire concept.

2 THE COURT: I'm convinced Mr. Weiss loves to say
3 that.

4 MR. WEISS: How often do you get to use a
5 four-letter word in a courthouse, Your Honor, without being
6 held in contempt, hopefully?

7 *(Brief pause.)*

8 MR. LIGHT: Well, Mr. Satawa talked about the
9 training and the cross-examination regarding whether or not
10 any of the training was specific to attacking or ambushing a
11 convoy or a funeral procession.

12 I would submit there are a couple of things that
13 are relevant to that.

14 One is that the conspiracy that's charged
15 involves a plan to oppose by force the United States
16 Government after the provocation that would be caused by
17 killing a cop and attacking the cop's funeral. And the
18 training that was done was towards the resistance to that
19 authority once that had been accomplished.

20 And I would also submit that some of the
21 training was directed at least initially towards learning how
22 to detonate explosives in such a way as to accomplish an
23 attack on a convoy or a funeral. It wasn't specific to roads,
24 but it was specific to how to wire and fuse and detonate
25 through command detonation of explosives. That was the

1 training or part of the training that happened on June 13th.

2 And I would suggest to the Court that some of
3 the argument that you've heard here today muddles together
4 different aspects of the training that took place on June
5 13th. One aspect of it was trip wire detection. And they had
6 trip wires attached to triggers in an exercise to see if they
7 could detect trip wires.

8 But that was separate and apart from the command
9 detonation of six IEDs that were set out in the woods and were
10 wired to be detonated using electrical battery. That was
11 separate from the trip wire.

12 A third part of it was the Bouncing Betty that
13 there was testimony about. And that was separate from the
14 command detonation of explosives.

15 THE COURT: And that was all on June 13th?

16 MR. LIGHT: That was all on June 13th. But they
17 were three separate aspects.

18 Indeed, the first aspect was training in ambush
19 and how to detect an ambush. And if the Court listens to the
20 recordings of that, those will be apparent.

21 THE COURT: And what are you saying in Count 3,
22 which part of this are you --

23 MR. LIGHT: It's the command detonation of the
24 IEDs that is the specific matter that's the subject of Count
25 3.

1 Now, there is also a discussion in Mr. --

2 THE COURT: Mr. Light, before you leave that, do
3 you have an exhibit reference on that?

4 MR. LIGHT: I'll --

5 Can you dig for it?

6 (*Off the record.*)

7 MR. LIGHT: Well, the recordings relating to
8 June 13th are in Government Exhibit 17. And I think the
9 specific ones referencing what I just discussed are 17 E and
10 F.

11 THE COURT: That would cover the command
12 detonation?

13 MR. LIGHT: I believe so. We'll check that
14 further and confirm that for the Court.

15 Another point with regard to Mr. Satawa is he
16 talked about how Mr. Meeks was not present for the detonation
17 of the first shaped charge. That was on August 13th, I
18 believe it was -- no. Later in August.

19 And looking at Government Exhibit 27 P, I'd like
20 to elaborate on what happened when Mr. Meeks joined the group
21 after that shaped charge had been detonated and they discussed
22 what had taken place, and he -- he provided some discussion
23 and commentary about it. Because I think it amounts to more
24 than Mr. Satawa would have it.

25 Starting on page 235, Joshua Stone says: "Holy

1 cow. That would really have done some damage to the road."

2 David Stone says: "I mean, it dug a hole,
3 Mikey, into the ground about that deep, just after it went
4 through a steel plate. A massive hole. It moved it. You
5 could feel it shake the whole ground inside the truck."

6 Joshua Stone: "Yeah. It was sweet."

7 David Stone: "It was sweet."

8 The agent: "It was all right."

9 Stone: "It was all right."

10 Mike Meeks: (Laughing.)

11 Stone: "It wasn't very big."

12 The agent: "No."

13 Stone: "It was only about that big a round."

14 Agent: "Yeah, not big at all."

15 Stone: "Not very big."

16 Josh Stone: "No. That was so good, you could
17 have stuck -- actually stuck it in the ground itself."

18 And they go on about the size of it.

19 And going on, moving on to 237:

20 David Stone says: "Now, if I could just get
21 cotton-picking Jeff with those mortars, man."

22 The agent: "He's that guy you were talking
23 about last time?"

24 Stone: "God, yeah."

25 The agent: "He just doesn't want to play?"

1 Stone: "This guy could build mortars, Mikey.
2 And if you gave him a power pole at 350, 400 yards, dude, I
3 could hit that, kapew."
4 Josh Stone: "You look all pissed."
5 David Stone: "It's like --"
6 Shannon Stone: "It's --" (unintelligible).
7 David Stone. "He can't shoot a rifle to save
8 his life."
9 Shannon Stone laughs.
10 Mike Meeks says: "Hey, everybody's got their
11 talent, man."
12 The Agent: "Exactly."
13 Meeks laughing.
14 The agent: "That's why it's a team, right?"
15 Meeks. "You know that's right."
16 Josh: "Leave 'em alone. Leave 'em alone."
17 Dave Stone: "But it's like, dude, if you could
18 do that. We don't need these things as much. Bunk, bunk,
19 bunk."
20 Shannon Stone: "Yeah."
21 David Stone: "Oh, look, they're all dead."
22 Michael Meeks: "I'll tell you what, that
23 indirect line of fire, man, that's helpful."
24 David Stone: "Heck, yeah."
25 Josh Stone. "I" -- and unintelligible. "Same

1 thing down there for you."

2 David Stone: "We could stop them in their
3 tracks going down the road and then . . ."

4 Joshua Stone: "Or should I?"

5 David Stone: "Drop things in on top of their
6 heads."

7 Josh Stone: "I ain't doing," unintelligible.

8 David Stone: "That eliminates their positions
9 to be able to hide."

10 Shannon Stone: (Laughing.) "You're welcome."

11 David Stone. "Take them out of them armored
12 plates and out from behind buildings. Puts us on equal terms.
13 Then all we got to do is take them out of the sky and build
14 them out of mortars. We'll tear helicopters up with them.
15 The only way to come after you, you know, is with jets."

16 Mike Meeks: "Well, hey, you know."

17 David Stone: "They are expensive."

18 Mike Meeks: "They have to be easy because they
19 were making them proximity fuses back in the forties, man. If
20 they can have that crap back then, you know you can buy that
21 crap now. You have to be able to."

22 Again, this was a piece of the plan to attack a
23 convoy, the plan to drop things on their heads; that is, to
24 attack the convoy with explosives and mortars.

25 There was some discussion by Mr. Thomas and

1 Mr. Shanker about the explosive devices that are the subject
2 of Count 3 and whether or not they were really either weapons
3 of mass destruction, destructive devices, or explosives, as
4 defined in the statutes. And Mr. Shanker pointed to part of
5 the statute regarding destructive devices, suggesting that if
6 they are not intended as weapons, then they're not destructive
7 devices.

8 And I would submit that on this record, the IEDs
9 that were used were in fact intended as weapons and were
10 destructive devices. But even if they weren't, they are also
11 charged as explosives. And under the definition of an
12 explosive in 18 United States Code Section 844(j), they still
13 qualify as devices whose training is forbidden by the statute
14 that Count 3 charges.

15 But I would also point to Government Exhibit 17
16 E, also from the June 13th training, as it relates to the
17 actual devices that were involved here.

18 David Stone says: "IED time."

19 Josh Clough: "I know to do that."

20 Shannon Stone: "I don't."

21 David Stone: "All right. This is how you take
22 out a trail. Go."

23 Then one of the devices is exploded using the
24 command detonation procedure that you see in the recording.

25 David Stone: "That's more than one on a line.

1 That's --"

2 Junior says: "That's two of them."

3 David Stone: "That's two. That's an entire
4 team. We set up in multiple teams. Detonate this one and we
5 want the last one too."

6 Josh Clough: "As you see the cap."

7 It goes on later on the page 76:

8 "We set up for three teams to detonate. So, if
9 Kovar would have went nose and in on a line, that they should
10 have went and looked at it. So went off.

11 And Junior says: "Yeah. I was almost going to
12 signal him to -- signal Dan to set it off. Then I see Az
13 walking right towards it."

14 David Stone: "We would, but here's the
15 problem."

16 Junior: "I could have killed you."

17 That's him stating that.

18 David Stone says: "And it's real difficult
19 whenever you are out here and you're going --"

20 The source says: "Everything is just chance,
21 isn't it?"

22 David Stone: "Did all the bombs go off?"

23 David Stone: "I don't know."

24 Senior Stone: "It's really not worth it."

25 David Stone: "Nothing's more scarier than

1 setting off a line and going back and looking and the bomb
2 didn't go off because it was black powder. Black powder."

3 Clough: "I know what that's like."

4 Stone: "Doesn't always detonate right away."

5 And this, combined with other statements such as
6 Stone's statement to Dan Murray the week before when he showed
7 him the devices that he was building, that "Holy crap, do
8 these things go off," all taken together, I think support the
9 conclusion that they were -- they were destructive devices or
10 at least explosives as defined in the statutes, in the
11 relevant statutes.

12 There's talk about cherry bombs and M-80s. And
13 I think there's a general -- there may be a general perception
14 that a cherry bomb or an M-80 is just a firecracker.

15 There isn't a record in this case as to what
16 those devices really are, but if one does some elemental
17 research, one finds that they're much more than firecrackers.

18 But there's not a record in this case before
19 this jury as to what a cherry bomb is or an M-80 is. And so I
20 would submit that there's no basis on saying, that because
21 there was a comparison to an M-80, then anything here was just
22 a firecracker. That's speculation and, I would submit,
23 uninformed speculation from someone who doesn't understand the
24 history of M-80s as they were used by the military or cherry
25 bombs as they were used by the military. True cherry bombs.

1 And, in fact, some of the evidence in this case
2 is manuals regarding how to build cherry bombs. Not
3 amusement-type cherry bombs. The real thing.

4 A couple of things to conclude with, Your Honor.
5 It has been a long day. I'll wrap it up.

6 Like Mr. Scharg and, I think, like Mr. Rataj, I
7 too believe in the First Amendment. I didn't serve my country
8 the way Mr. Rataj has. And, in fact --

9 MR. SATAWA: And Mr. Meeks.

10 MR. LIGHT: I, like Mr. Scharg, protested what I
11 thought was an unjust war in the late sixties and early
12 seventies. And I was in college at the time of the shootings
13 at Penn State as well.

14 MR. SCHARG: You made us co-conspirators.

15 MR. LIGHT: We'll talk later.

16 MR. THOMAS: Statutes run.

17 MR. LIGHT: I haven't served in the military
18 like Mr. Graveline either. But I'm sure he, like me, respects
19 and is grateful for the protections of the First Amendment.

20 But I submit to this Court that even with the
21 protections of the First Amendment, words have consequences,
22 and words can constitute part of and the basis for an
23 agreement to conduct criminal activities. And, in fact, a
24 conspiracy can be based on words alone if those words are
25 sufficient to show that agreement.

1 But if those words are then combined with
2 actions, it takes it further. And if words, combined with
3 actions, show directly through the words and/or
4 circumstantially through those actions and, further,
5 circumstantially through other statements that reflect a
6 criminal intent, then words can provide part of the basis for
7 a charge of conspiracy.

8 This case, in large part, is based on words, but
9 it's the words of these Defendants as recorded in the evidence
10 that has been admitted in this court.

11 And I submit to you that those words are
12 sufficient to submit this case to the jury on each of the
13 Defendants as to conspiracy to oppose by force the authority
14 of the United States, as well as a conspiracy to use
15 explosives or destructive devices or weapons of mass
16 destruction against persons or property against the United
17 States, as charged in Counts 1 and 2.

18 Finally, I started my career as an appellate
19 lawyer, and this argument has seemed to me like, in a way, the
20 appellate argument from hell insofar as it's an attempt to
21 argue the sufficiency of the evidence based upon a lengthy
22 record, a seven-week record, with multiple recordings, and an
23 attempt to respond to the Court's questions to pin down
24 specific statements, specific evidence, specific recordings to
25 support things that I believe are supported by the evidence.

1 Why it's from hell? Because normally in an
2 appellate argument you have time to sit down and examine the
3 record carefully and identify those things in response to a
4 brief that's been filed. And, in this case, we've essentially
5 tried to do this over a weekend.

6 And so if there are specific areas on which
7 we've failed to specify, we would seek the opportunity to
8 specify more directly the answers to some of the Court's
9 questions, especially the questions to me earlier today.

10 And I don't know if that could be done either in
11 something that would be filed later on this week or if the
12 Court could reserve ruling on this motion until after the case
13 is submitted to the jury and then take it up as a post-verdict
14 motion for judgment of acquittal.

15 Thank you.

16 THE COURT: Thank you.

17 Does any Defense counsel have a brief response?

18 MR. RATAJ: I just got one comment to that last
19 statement, Your Honor.

20 They've had four years to put this together.
21 Four years. Okay? And they're going to come in here on
22 today, when we're arguing Rule 29 motions, and say, well,
23 geez, we haven't had enough time to put in all of the
24 evidence, to outline for you all of the evidence that supports
25 guilt? That's an unbelievable admission.

1 THE COURT: Mr. Swor, did you have something?

2 MR. SWOR: Just very, really very briefly.

3 One, Mr. Light suggested that he has no
4 objection to us putting the recordings in as part of our case.

5 Your Honor, the exhibits are already in. When
6 the Government moved the admission of the recordings, they
7 moved the admission of the entire recording. And everything
8 we've referred to was part of the entire recording.

9 Therefore, it's already in evidence and the Court can consider
10 it as part of the proofs of this case.

11 THE COURT: Is that true, Mr. Light?

12 MR. LIGHT: Your Honor, I think technically they
13 have been moved into evidence.

14 I don't think the Court has the entire
15 transcripts. I think all the Court has now are transcripts of
16 the specific portions that were played either by the
17 Government or maybe some of the specific portions that the
18 Defense played.

19 I don't know if the Defense produced those
20 transcripts to the Court. But I don't think the Court has the
21 entire transcript in the form in which Mr. Swor is referring
22 to.

23 THE COURT: All right.

24 MR. LIGHT: I may be incorrect about that.

25 THE COURT: No, I don't think we have that. But

1 all right.

2 MR. SWOR: Secondly, sort of what Mr. Rataj
3 said. The Court told the Government three weeks ago, maybe
4 four weeks ago, to start preparing the specifications upon
5 which they sought to prevail.

6 Let me see. Mr. Light said that there was not
7 only talk, but there was action; that they obtained weapons,
8 ammunition, and sought to obtain -- I believe he said sought
9 to obtain explosive devices.

10 Mr. Stone bought one gun since August 16, 2008.
11 He bought no ammunition, and he did not seek any explosive
12 devices.

13 The Government raised the subject and the
14 Government is the one that proposed the larger explosives.
15 And we have that all the way from December 2008.

16 Secondly, saying that we took the conversations
17 out of context is absolutely not true.

18 You know, Exhibit 24 N, which they claim is the
19 evidence of the intention to kill cops, there are -- in
20 Exhibit 24 there are at least nine different conversations.
21 Certainly -- and the thing is that that one talks about using
22 a mortar.

23 There was no mortar. There was no movement to
24 obtain a mortar.

25 Exhibit 59 H that the Government referred to.

1 Mr. Stone said "if," as a condition to every activity there,
2 at least four times. Every activity was preceded by "if."

3 Kansas City SWAT is a local police unit; not a
4 federal police unit.

5 17 E and F. On the one conversation only, which
6 is F, Mr. Stone made every action, if we could, if we could,
7 if we did, if we did. It's all conditional. There's no
8 agreement to do anything.

9 And I am going to stop before I start getting
10 wound up further. But, Your Honor, we are not asking the
11 Court to take our view of the evidence. We're saying that
12 there is no evidence. There is no evidence of a conspiracy
13 even taken in the light most favorable to the Government.

14 Thank you.

15 THE COURT: Thank you.

16 Any other Defense counsel?

17 All right. Thank you, counsel.

18 I have instructed my staff to tell the jury not
19 to come in tomorrow. The Court just needs to consider these
20 motions and their outcome. And so you will hear from us
21 tomorrow. But the jury won't be here until Thursday.

22 MR. HELFRICK: What are we supposed to do?

23 Where do we go?

24 THE COURT: You can come here and be in that
25 little room if you'd like.

1 MR. HELFRICK: The clubhouse. That's the
2 clubhouse.

3 MR. WEISS: Should we assume that you don't want
4 us here until Thursday either?

5 THE COURT: No. No.

6 MR. WEISS: When would you like us?

7 THE COURT: But I don't know, counsel. I really
8 don't know.

9 MR. WEISS: All right.

10 MR. HELFRICK: Are you saying we may get called
11 over here tomorrow?

12 THE COURT: You might. I just don't know.

13 You were planning on being here anywhere. Just
14 work in your offices tomorrow and dress up.

15 MR. HELFRICK: We have to wear a suit?

16 MR. WEISS: Judge, will the Defendants be called
17 over?

18 MR. HELFRICK: What about the Defendants, you
19 know, that are not in custody?

20 THE COURT: Oh, that's true.

21 All right. Well, let me say no.

22 MR. HELFRICK: Thank you.

23 *(Off the record.)*

24 THE COURT: Court is back in session on
25 Wednesday.

1 Did I say Thursday? I didn't mean to say that.

2 MR. SWOR: We'll wait until Thursday.

3 THE COURT: No. I meant to say -- I'm a day
4 ahead.

5 Wednesday. Not tomorrow. Wednesday.

6 Wednesday at 8:30 for any issues that we may
7 have. At nine o'clock the jury is scheduled to be here.
8 Wednesday. All right?

9 Thank you.

10 *(Off the record.)*

11 MR. SCHARG: Are we supposed to have witnesses
12 here on Wednesday morning?

13 THE COURT: You should prepare for that, yes.

14 But I'm going to let you know tomorrow as early as I can about
15 the outcome of these motions.

16 MR. SCHARG: Okay.

17 *(Proceedings were adjourned at 5:20 p.m.)*

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STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

I, Denise A. Mosby, Federal Official Court Reporter, do certify that the foregoing is a correct transcript from the record of proceedings in the above matter.

s/ Denise A. Mosby

DENISE A. MOSBY, CSR, RMR, CRR
United States Court Reporter
124 Theodore Levin U.S. Courthouse
231 W. Lafayette Boulevard
Detroit, MI 48226
313.961.6230
Denise_Mosby@mied.uscourts.gov

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